IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 598 OF 2025

Khadeejah Shahabuddin Shaikh .. Applicant
Versus
State of Maharashtra and Ors. .. Respondents

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- Ms. Farhana Shah a/w. Mr. Omar Shah and Ms. Amna Khan, Advocates for Applicant.
- Mr. Amit A Palkar, APP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.
DATE : OCTOBER 27, 2026.

P.C.:

1. Heard Ms. Shah, learned Advocate for Applicant and Mr. Palkar, learned APP for Respondent - State.

2. The present Criminal Application is filed to quash the FIR No.380 of 2025 dated 09.05.2025 lodged with Kondhwa Police Station against Applicant for offences punishable under Sections 152, 196, 197, 29, 352 and 353 of the Bharatiya Nyaya Sanhita, 2023.

3. It is prosecution case that on 07.05.2025, while Complainant who is a Police Hawaldar was monitoring social media on his patrolling duty came across a social media post which was re-posted by Applicant on her Instagram Account with regard to the war between India and Pakistan fomenting objectionable religious sentiments having communal overtone and may have caused tension

and affected public peace. Hence, the said FIR was lodged against Applicant.

4. Ms. Shah learned Advocate for Applicant Learned Advocate for the Applicant would submit that the Applicant had merely re-posted the content which had already been published by another person and was not the author of the original post. The Applicant re-posted the contentious post on 07.05.2025 and consciously deleted the same within two hours on the very same day. She had also publicly expressed remorse and tendered an apology. She would submit that despite the immediate deletion of the post and the apology, the FIR came to be registered on 09.05.2025 and Applicant was arrested on the same day.

4.1. She would submit that even if the contents of the post were capable of creating apprehension of disturbance between religious communities, at first glance the FIR does not disclose any substantial material demonstrating the requisite criminal intention or knowledge on the part of Applicant. She would submit that no actual incident of communal disturbance has been brought to the notice because of the post. She would submit that Applicant is a young Engineering student with no criminal antecedents and a bright future. She would submit that continuation of the criminal proceedings would affect the career of the Applicant and her future prospects and therefore prays for the

FIR to be quashed with directions deemed fit by the Court considering the age of Applicant and her future.

5. Mr. Palkar, learned Advocate for Respondent – State would submit that the content re-posted by Applicant was capable of hurting religious sentiments and disturbing communal harmony between two religious groups. He would submit that the fact that Applicant was not the original author of the post would not absolve her of liability, as re-posting the content also amounts to public exposure. He would submit that deletion of the post and tendering of an apology would not automatically extinguish criminal liability if the requisite ingredients of the offences are otherwise *prima facie* established. He would therefore oppose the Application and submit that Application for quashing on merits be dismissed.

6. I have heard Ms. Shah, learned Advocate for Applicant, Mr. Palkar, learned APP for Respondent - State at length and with their able assistance perused the record of the case. Submissions made by learned Advocates at the bar have received due consideration of the Court.

7. At the outset, it is pertinent to note that Applicant is not the author or creator of the original post. The post is undoubtedly contentious arousing passion and hatred. Her role is confined to re-posting the said post which was already available on the social media

platform. The material placed on record indicates that Applicant re-posted the post on 07.05.2025 and deleted it within two hours on the very same day. Thus, the re-post remained on her account for a period of approximately two hours. The Applicant also publicly expressed remorse and tendered an apology immediately for having re-posted the content. It is pertinent to note that the prompt deletion of the post was a conscious decision on her part and was not pursuant to any direction issued by the investigating agency. These circumstances are relevant while examining the nature of Applicant's conduct and the criminal intention attributed to her.

8. I am conscious of the fact that the said post relating to religion and religious sentiments requires to be considered with sensitivity and responsibility, particularly in a Society comprising persons belonging to different religious communities. At first glance, it is seen that the contents of the post in question may have had the potential to create apprehension of disturbance between religious communities, however, the mere possibility that a publication may cause displeasure or resentment cannot, by itself, constitute sufficient ground for criminal prosecution. This is so because the allegations must satisfy the essential ingredients of the penal provisions invoked. The distinction between content which may be objectionable and conduct which constitutes a criminal offence therefore cannot be

overlooked. The criminal law cannot be set into motion merely because a particular publication is perceived to be offensive, unless the conduct falls within the prohibition prescribed by law.

9. On considering the allegations in the FIR, prosecution has invoked several provisions of the BNS, 2023 which contemplate distinct forms of criminal conduct. Section 152 concerns acts endangering the sovereignty, unity and integrity of India. Section 196 concerns promotion of enmity between different groups and acts prejudicial to the maintenance of harmony. Section 197 concerns imputations and assertions prejudicial to national integration, whereas Section 299 requires a deliberate and malicious intention to outrage religious feelings. Sections 352 and 353 likewise contemplate specific statutory ingredients relating to intentional insult and statements or publications falling within the prohibited categories of public nuisance. The invocation of these provisions cannot be sustained merely on the general allegation that the content was objectionable or capable of creating communal disharmony. With regard to material placed before me, I find no sufficient grounds demonstrating how Applicant's act of re-posting the said post satisfies the essential ingredients of each of the above offences alleged.

10. Further, it is seen that the FIR does not disclose substantial material establishing that Applicant acted with the requisite criminal

intention or knowledge contemplated by the provisions invoked. The fact that Applicant was not the original author of the post does not, by itself, absolve her of liability, since the act of re-posting may also attract criminal consequences where some of the necessary ingredients are established. However, the individual role of Applicant and the circumstances in which the re-post was made and immediately deleted must necessarily be examined. In the present case, Applicant deleted the content within two hours and thereafter tendered a public apology. Although such subsequent conduct cannot conclusively determine the intention existing at the time of posting it initially, it is still a relevant circumstance which cannot be ignored while assessing the allegations against her. The material placed before me does not disclose any repeated conduct, continued dissemination after the deletion or any specific overt or incriminating act on the part of Applicant demonstrating a deliberate attempt to promote religious hostility.

11. It is important for me to consider that no actual incident of communal disturbance or other consequential unlawful activity attributable to Applicant's re-post has been brought to my notice. I am of the opinion that when the prosecution seeks to attribute criminal liability on the ground that a publication was likely to disturb communal harmony, the relevant statutory requirements must still be

satisfied. The apprehension of a possible disturbance cannot substitute for the specific acts, intention or knowledge required by law. In the present case, the absence of any identified consequential incident, when considered alongside the prompt deletion of the post, the apology tendered by Applicant and the absence of specific material establishing the statutory ingredients, reinforces that the prosecution lacks a sufficient factual foundation. This is a chance required to be taken by the Court because trial and punishment has to be believed to be inflicted for a reformative result rather than being punitive in nature especially when Applicant is young student. It is widely believed that education can transform lives and generations.

12. It is seen that the FIR came to be registered on 09.05.2025, although Applicant had deleted the post on 07.05.2025 itself. The delay of approximately two days in registering the FIR does not, by itself, render the prosecution illegal. However, the circumstances in which the FIR came to be registered and Applicant was arrested requires consideration.

13. It is seen that Applicant is a young Engineering student pursuing her Bachelor of Engineering in Information Technology in a college and has no criminal antecedents. The incident in question appears to be an isolated act of re-posting, followed by its voluntary deletion and an expression of remorse probably because of the

exuberance of youth and age. In my opinion, the circumstances indicate that the Applicant did not persist in her said conduct rather corrected herself. A youthful error of judgment cannot automatically be equated with a deliberate criminal act in the absence of material establishing the ingredients of the alleged offences.

14. Considering the young age and the career prospects of the Applicant, a chance is therefore required to be taken by the Court because trial and punishment has to be believed to be inflicted for a reformative result rather than a punitive measure. Applicant has already suffered custody. That in itself for a young student is a scar which cannot be erased easily. The prosecution in case is dependent upon mere act of re-posting and nothing more with regard to the incident in question. Hence from the perspective of powers conferred on this Court under Section 482 of CrPC, I am inclined to consider the Application for quashing of the criminal proceedings.

15. I am of the considered opinion that when the allegations in the FIR are read they do not disclose the intent of commission of the offences alleged. It is seen that the prosecution appears to proceed substantially on the act of re-posting the content without disclosing sufficient particulars establishing the requisite criminal intention or the other essential ingredients of the provisions invoked. I am therefore unable to accept that the continuation of the criminal

proceedings would serve any legitimate purpose in the facts and circumstances of the present case alluded to hereinabove.

16. In view of the aforesaid observations and findings, I am inclined to allow the present Application.

17. Criminal Application is allowed in terms of prayer clause 'a' which reads thus:-

> *"a. To quash the FIR bearing CR. No. 380 of 2025 registerd with Kondhwa Police Station for offences under Section 152, 196, 197, 299, 352, 353 of the BNS, 2023 on the complaint of Subash Mahadev Jarande."*

18. Criminal Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

AJAY TRAMBAK UGALMUGALE

Digitally signed by AJAY TRAMBAK UGALMUGALE
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