

**Police Station Not a Prohibited Place Under Official Secrets Act: Bombay High Court Quashes FIR Against Man Booked For Shooting Video Inside PS**

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY NAGPUR BENCH**

**MANISH PITALE; J., VALMIKI SA MENEZES, J.**

**CRIMINAL APPLN. (APL) NO. 615 OF 2021; 26.07.20 22**

**Ravindra Shitalrao Upadyay versus State of Maharashtra**

*Mr.D.R.Bhojar, counsel for the applicant. Mr.S.M.Ghodeswar, APP for the respondent.*

**J U D G M E N T**

**Manish Pitale, J;**

Heard.

2. Admit. Heard finally by consent of the learned counsel appearing for the parties.
3. By this application, the applicant, i.e. the original accused has approached before this Court seeking quashing of First Information Report (FIR) No.219 of 2018 and consequent case bearing Regular Criminal Case No.875 of 2019, pending before the Competent Court at Wardha, in pursuance of filing of charge-sheet in the matter.
4. The applicant in the present case as per FIR dated 08/03/2018, has been accused of offence punishable under section 3 of the Official Secrets Act, 1923. Pursuant to investigation, chargesheet was filed on 18/11/2019.
5. Mr. Bhojar, learned counsel appearing for the applicant, submits that even if the contents of the FIR and the material placed before the Court below along with charge-sheet are to be perused and accepted as it is, there are no ingredients of offence punishable under section 3 of the Official Secrets Act made out in the present case. On this basis, it is submitted that the present application deserves to be allowed in the interest of justice.
6. Mr.Ghodeswar, learned APP on the other hand, submitted that this Court may peruse the material placed on record to arrive at a conclusion as to whether offence under the aforesaid provision is made out or not. Judgment of this Court in the case of Satvik Vinod Bangre and others v. The State of Maharashtra and another (order dated 23/03/2021) passed in Criminal Application (APL) No.74 of 2021 and other is brought to the notice of this Court, to assist this Court for deciding the present application.
7. A perusal of the material on record shows that the complainant in the present case is a Police Officer, who has alleged that during certain proceedings being undertaken in the Police Station, the applicant secretly video recorded the proceedings on his mobile, thereby committing offence punishable under section 3 of the Official Secrets Act, 1923. The material placed on record indicates that there was a dispute between the applicant and his wife on one hand and owner of adjacent agricultural field on the other, leading to a situation where a non-cognizable report was registered against the owner of the adjacent agricultural field, at the behest of the applicant. The Police Officer informed the applicant and his wife that on the basis of a cross complaint being placed before the Police by the owner of the adjacent agricultural field, there was every likelihood of registration of offence against the applicant and his wife. In this backdrop, the rival parties were present in the Police Station and it is alleged that attempts were being made to settle the inter se dispute between the parties. It is at this stage that, according to the complainant-Police Officer, the applicant made the aforesaid video recording, thereby committing the said offence.

8. The contents of the FIR state the aforesaid allegations against the applicant. The statements of alleged witnesses recorded during the course of investigation and made part of the chargesheet also limit the allegation only to the aforesaid act on the part of the applicant in making the video recording whilst the discussions were going on in the Police Station.

9. This Court has perused section 3 of the Official Secrets Act, which provides penalties for spying. It specifically states that a person would face penalty for spying if he commits an act as specified in sub-section (1) thereof. The relevant portion of the said provision is reproduced as follows:

**“3. Penalties for spying.–** (1) If any person for any purpose prejudicial to the safety or interests of the State–

- (a) approaches, inspects, passes over or is in the vicinity of, or enters, any prohibited place; or
- (b) makes any sketch, plan, model, or note which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy; or
- (c) obtains, collects, records or publishes or communicates to any other person any secret official code or password, or any sketch, plan, model, article or note or other document or information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States, he shall be punishable with imprisonment for a term which may extend, where the offence is committed in relation to any work of defence, arsenal, naval, military or air force establishment or station, mine, minefield, factory, dockyard, camp, ship or aircraft or otherwise in relation to the naval, military or air force affairs of Government or in relation to any secret official code, to fourteen years and in other cases to three years.”

10. In the context of the above quoted provision, the definition of ‘prohibited place’ as defined in section 2(8) of the Official Secrets Act is relevant. It is an exhaustive definition, which does not specifically include Police Station as one of the places or establishments, which could be included in the definition ‘prohibited place’. Considering the aforesaid provisions and proceeding on the basis of the statements made by witnesses during the course of investigation, in the backdrop of the allegation made by the complainant, this Court is of the opinion that none of the ingredients of the alleged offence are made out against the applicant. Therefore, this would be a fit case to allow the present application.

11. In the judgment in the case of Satvik Vinod Bangre and others v. The State of Maharashtra and another, in a similar situation, when video recording was made on the mobile phone, in the context of the offences punishable under sections 353 and 186 read with section 34 of the Indian Penal Code, this Court found that there was no material to invoke sections 3 and 4 of the Official Secrets Act. This Court is of the opinion that the allegations in the said case were far more serious than those made in the present case against the applicant.

12. In view of the above, the application is allowed in terms of prayer clause-1, which reads as follows.

“1. Exercise the inherent powers vested by virtue of section- 482 of Cr.P.C. and thereby quash and set aside the F.I.R. bearing Crime no.-219/2018 dated-08/03/2018 for the offences punishable under Section – 3 of Official Secrets Act, 1923 and consequent R.C.C. No.- 875/2019 thereto pending before Chief Judicial Magistrate, Wardha.”

13. Accordingly, the application is disposed of.