

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

CRIMINAL APPLICATION NO. 2037 OF 2015

GAJENDRA S/O NAGNATH TRIMBAKE
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr R R Imale
APP for Respondents: Miss R P Gour

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CORAM : S V GANGAPURWALA & V.K. JADHAV, JJ.
Dated: December 09, 2015

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PER COURT :-

1. A complaint is lodged with Jawahar Nagar Police Station, Aurangabad against the present applicant and other six persons. It is alleged that, the marriage of the complainant was fixed with one Ashwin Hasnale, R/o. Mumbai. The engagement was performed on 15.6.2014 and marriage was fixed on 18.12.2014. However, due to nonavailability of marriage function hall it was subsequently changed to 3.12.2014. The complainant proceeds further and states that, bridegroom Ashwin offered the complainant to perform marriage at Vaishnav Devi Temple and their marriage was performed. Thereafter, said Ashwin compelled the complainant under threat to engage him in physical relation. The complainant further states that on 3.12.2014 said Ashwin and his relatives did not turn up at Aurangabad for marriage. As such, loss to the tune of Rs.5.00 lacs to

Rs.6.00 lacs is caused. So also, the offence u/s 376 of Indian Penal Code is alleged. Crime is registered under section 420, 376 and 417 read with section 34 of the Indian Penal Code.

2. As far as allegations against the present applicant are concerned, it is stated that, one meeting between the persons from the girl side and boys side had taken place at his residence. Apart from the said fact, there is no other allegation against the present applicant in the whole complaint.

3. Mr. Imle, the learned counsel for the applicant submits that, even in respect of the real brother of the accused Ashwin, this Court has quashed the complaint. Present applicant is brother-in-law of accused Ashwin and no role is attributed to him in the whole complaint.

4. Miss Gour, the learned APP submits that, the meeting had taken place at the house of the present applicant. Naturally present applicant also is responsible. Even if section 376 may not be attracted to the extent of present applicant, still section 420 and 417 would be attracted as loss has been caused to the complainant.

5. We have considered the complaint. The basic allegations in the complaint is that, engagement had taken place between Ashwin and complainant and date of marriage was fixed as 3.12.2014. On that day, Ashwin and his relatives did not turn up for marriage. During the interregnum Ashwin threatened the complainant and under threat forced the complainant to maintain physical relations.

6. As far as present applicant is concerned, there are absolutely no averments in the complaint except to the extent that one meeting between relatives of the girl side and boys side had taken place at the house of the present applicant. Save and except said allegation, there are no averments as far as present applicant is concerned.

7. Present applicant is not even remotely concerned with the acts of the bridegroom or his relatives as is alleged. The meeting which had allegedly taken place at the house of the present applicant is prior to the engagement and after that engagement has taken place between Ashwin and complainant. Thereafter, no role is attributed to the present applicant.

8. Complainant though served, remained absent.

9. This Court vide order dated 25.3.2015 had quashed the complaint to the extent of Hemant Hasnale i.e. real brother of Ashwin.

10. Considering the aforesaid aspects of the matter, present application is allowed. The First Information Report bearing No.I-289/2014 registered with Jawahar Nagar Police Station, Aurangabad for the offence u/s 420, 376, 417 read with section 34 of the Indian Penal Code to the extent of present applicant is quashed and set aside.

11. Criminal Application is disposed of accordingly.

(V.K. JADHAV, J.)

(S V GANGAPURWALA, J.)

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