

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1108 OF 2016

Kadir S/o Hamid Patel,
Age : 28 years, Occu.: Service,
R/o Harsul, Tq. Aurangabad
Dist. Aurangabad

.. Applicant

Vs.

The State of Maharashtra
Through Harsul Police Station,
Aurangabad

.. Respondent

Mr. J.V. Deshpande, Advocate for the applicant
Mr. A.R. Borulkar, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 02/04/2016

ORAL ORDER :

Heard.

2. Learned counsel for the applicant files on record the certified copy of the previous FIR filed against the present applicant by the very same victim for the offence punishable under section 376 of the Indian Penal Code. The same is accepted on record and marked as "X" for the purpose of identification.

. Besides this, in the very complaint, it is alleged that she had already filed a complaint against

the applicant for the offence punishable under section 376 of the Indian Penal Code and the case was pending at the time of filing of the present complaint.

. According to the present complaint of the victim, while the said case is pending, on 25/01/2016 she went to the house of the present applicant in order to bring her certain mobile phone. At that time, the present applicant and his two brothers abused her and his brother asked her to come into the house to secure the mobile and, therefore, while she without going into the house, returned back. She as well as her companion Akshay Shinde on a scooty went away. At that time, however the present applicant and his brother tried to snatch her 'odhani' and her top. In the circumstances, he further threatened that the photo secured by him on the mobile phone, would be put on the social media.

3. Mr. J.V. Deshpande, learned counsel for the applicant submits that the very contention of the victim, that despite the pendency of the case for the offence punishable under section 376 of the Indian Penal Code against the present applicant, the victim

would again visit his house to secure the mobile phone, would be improbable. In the circumstances, he submits that only to involve the applicant in a false case, he being a Police Constable, the complaint is filed.

4. Learned A.P.P. opposed the application. He submits that the complaint would prima facie show that the offence is committed.

5. Upon hearing both sides and taking into consideration the background of the case, the custodial interrogation of the present applicant in the present crime is not required.

6. In the circumstances, the interim protection granted to the applicant by this Court vide order dated 22/02/2016 is hereby made absolute on the same terms and conditions.

7. Application stands disposed of accordingly.

Sd/-

[M.T. JOSHI]
JUDGE

arp/