

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

CRIMINAL APPLICATION (ABA) 314 OF 2016

(Ashwajit Prakash Patil Vs. The State of Maharashtra)

AND

CRIMINAL APPLICATION (ABA) 314 OF 2016

(Prakash Gopalrao Patil & others Vs. The State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S. V. Bhutada, Advocate for the applicants.
Shri S. D. Shirpurkar, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.
DATED : 20 JULY, 2016

Heard learned Counsel for the applicants
and learned A.P.P. for the State. Perused the case diary
and reply of the prosecution.

According to the learned A.P.P. for the State,
the complainant has stated repeatedly that whenever
the applicant in ABA No.314/2016 established physical
relationship with her, she resisted the advances and
that her consent was obtained by Ashwajit after
assuring her that ultimately they were to be husband
and wife. On perusal of the FIR, however, I find that
this is a case wherein the love story which had
developed as a result of engagement of Ashwajit with
the complainant on 02/01/2016 turned sour and which
ultimately laid to filing of the FIR by the complainant

against this applicant and the applicants in ABA No. 288/2016, i.e. Prakash Patil and Smt, Indumati Patil, the parents and Rahul Patil, the elder brother of applicant Ashwajit. It appears that the complainant lodged this complaint only because, later on, some differences cropped up between the side of these applicants and the family members of the complainant regarding solemnization of marriage of Ashwajit with the complainant. At this stage there is no need to discuss the reasons for breaking up of the marriage, but what is necessary is to point out that from the FIR as well as the material available in the case diary, there is no circumstance which is present as of now showing dishonest intention on the part of the applicant Ashwajit since beginning of the love story. Therefore, I am of the view that it is doubtful if the offence punishable under Section 420 I.P.C. would be constituted. If such doubt exists about the offence relating to cheating of the complainant, there would also be a question raised about the absence of alleged consent owing to giving of false promise of marriage by applicant and, therefore, it would also be doubtful that any offence punishable under Section 376 IPC would

be made out. These observations would be applicable to the case of the applicant in ABA No. 314/2016 i.e. Ashwajit . So far as the remaining three applicants in ABA No.288/2016 are concerned, there is absolutely nothing available on record which would show their any role in prima facie committing the offences alleged against them. In the circumstances, I am of the view that both these applications deserve to be allowed and they are allowed accordingly.

It is directed that the interim bail granted to Ashwajit (in ABA No.314/2016) on 13/5/2016 and the interim bail granted to Prakash Patil, smt. Indumati Patil and Rahul Patil (in ABA No.288/2016) on 04/5/2016 are hereby confirmed on the same conditions and also on the additional conditions that these applicants shall attend the police station as and when required, shall cooperate with the police in the investigation and shall not tamper with the prosecution witnesses.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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