

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3445 OF 2017

Sham s/o Yashwant Jadhav, Age 55 ... **Applicant.**
years, Occ. Service, R/o.
Rakshaswadi, Tq. Karjat, Dist.
Ahmednagar

V E R S U S

The State of Maharashtra. ... **Respondent.**
Through Police Station Officer
Karjat Police Station, Dist.
Ahmednagar.

Mr. N. V. Gaware, learned Advocate for the Applicant.
Mr. A.S. Shinde, A.P.P. for the respondent/State

CORAM : K.L. WADANE, J.

DATE : 25th July, 2017

ORDER :

1. Heard Mr. Gaware, learned counsel appearing
for the applicant and Mr. Shinde, learned APP
appearing for the respondent/state.

2. One Bhagwat Rambhau Ubale lodged a complaint
to the police station alleging that, prior to two
years present applicant kidnapped his wife namely
Adika and had committed rape on her. The offence came
to be registered against the applicant under section
376 of the Indian Penal Code, however, the matter was

compromised outside the Court on 06.11.2015. Approximately, six months thereafter the applicant started to call her on mobile and asking her to keep illicit relations with him, otherwise he will kidnap and rape on her.

3. On 4.10.2016 at about 11 a.m. the applicant contacted the wife of the informant on mobile and asked the same thing i.e. to keep illicit relations else he will kidnap her and rape on her. The wife of the informant informed this incident to informant, son-in-law of the informant, son and daughter and she was mentally disturbed.

4. At about 9 p.m. suddenly the informant heard the voice of his wife and he saw that his wife caught fire. The informant extinguished the fire. After the incident, the wife was taken to the hospital at Karjat and subsequently she referred to Apex Hospital Ahmednagar. However, during treatment she died on 10.10.2016.

5. Mr. Gaware, learned advocate appearing for the applicant points out that, in the earlier crime

the present informant and his wife have not supported the case of the prosecution. On perusal of the depositions of informant and his wife in Sessions Case No. 288 of 2014 it appears that, both of them have turned hostile. As they have reciled from their earlier statement, therefore, they were cross-examined by the learned APP appearing in that case.

6. Looking to the background that, earlier there was similar allegations against the present applicant about rape, I have perused the papers of investigation. On perusal of the same it appears that, the CDR of the mobile numbers, location of the holders of the mobile were possible to be traced. However, the investigating officer has not done except writing letter to the Superintendent of Police Ahmednagar dated 13.10.2016. Without collection of such information the investigating officer has filed the charge-sheet. So the material and important evidence has to be CDR and SDR of tower location is missing. There appears to be no evidence disclosing the talk between the present applicant and the deceased on their respective mobile phones.

7. In view of the above and the fact that the investigation is already completed and the charge-sheet is filed. No custodial interrogation of the present applicant is needed. Hence, following order.

O R D E R.

(1) Application is allowed.

(2) In the event of arrest of the applicant in connection with Crime No.260 of 2016, registered with Karjat Police station, District Ahmednagar, he be released on bail on his furnishing P.R. bond of Rs. 15,000/- (Rupees fifteen thousand only), with one surety in the like amount.

(3) The applicant shall not tamper with the evidence of prosecution in any manner.

8. Criminal Application is disposed-of.

(K.L. WADANE, J.)

mkd/-