

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

CRIMINAL APPLICATION (ABA) NO.913/2017

Gopal Pandurangji Tirmare ..vs.. State of Maharashtra through PSO PS
Frezarpura, Tq. Dist. Amravati

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

Court's or Judge's orders.

Mr. A. V. Band, Advocate for applicant.

Mrs. K. Deshpande, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 20, 2017

1. Heard Mr. A. V. Band, Advocate for applicant and
Mrs. K. Deshpande, A.P.P. for non applicant-State.

2. The applicant is apprehending his arrest in
connection with Crime No.960/2017 registered with Police
Station, Frezarpura, Amravati, Tq. Dist. Amravati for an
offence punishable under Sections 376, 376 (2) (N), 417,
506 (B) of the Indian Penal Code read with Section 3 (1)
(W) (i) (ii) of the Scheduled Castes and Scheduled Tribes
(Prevention of Atrocities) Act, 1989.

3. Yesterday this matter was heard fully. When the
Court was about to dismiss the application, Mr. Band,
learned counsel for the applicant, submitted that one day
time be granted to take instructions for withdrawal of the
present application.

Today, when the matter is called out, the learned counsel for the applicant has turned around and submitted that he wants an order from the Court. Therefore, the Court is proceeding with the matter.

4. According to the submission of the learned counsel for the applicant, the victim who belongs to the Scheduled Caste is a married woman. Therefore, the FIR is false. He submitted that since the FIR is false, the application, which was rejected by the Court below on the ground of bar under Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. In order to buttress his submissions, he placed reliance on a reported case in Ramchandra Govindrao Watkar & anr. .vs. State of Maharashtra reported in 1995 (2) Mh. L. J. 669.

5. The FIR is lodged by the victim herself. In the FIR itself she has mentioned her caste which is admittedly a caste appearing in the Schedule of the Constitution and therefore she belong to the Scheduled Caste is an undisputed fact.

6. According to the FIR, the present applicant, has established physical relationship with her on the pretext that he will perform marriage with her. It is also stated in the FIR that though the present applicant is a married person, the said fact was concealed from the first informant and has

exposed her to the sexual activities. It is further the statement that when the victim asked the applicant to marry her as per the promise, the present applicant has turned around and has flatly refused the same. Not only that, he allured the first informant that he will give money to her and after getting money she should vanish from the scene. On this FIR, the applicant is apprehending his arrest.

7. It is admitted that the present applicant is a Member of the Municipal Council and thus is an elected representative from the said town. Normally, it is expected from the elected person that they are there to maintain dignity and decorum of the citizens, especially the woman that too when they belong to the Scheduled Caste. However, here the present applicant, taking disadvantage of his position, has exposed the woman from an oppressed class and has exploited her.

8. According to the applicant, the FIR itself shows that she is a married woman. He therefore submitted that it was not possible for him to give promise that he will marry with her and therefore the entire FIR is nothing but falsehood.

9. The applicant himself has filed copy of the reply which was filed by the prosecution before the learned Judge of the Court below. The said reply is at page nos. 23 to 25 of

the compilation. On page 23 at column no.8, it was brought to the notice of the learned Judge of the Court below by the police authorities that the applicant is facing following prosecutions:

(i) Crime No.3076/2013 for an offence punishable under Sections 294, 324, 506 of the Indian Penal Code and under Section 3 (i) (x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The case is still pending in the Court of law.

(ii) Crime No.49/2007 for an offence punishable under Sections 147, 149, 332, 336, 353, 186 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act.

(iii) Crime No.230/2010 for an offence punishable under Sections 147, 149, 332, 336, 353, 186 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act.

(iv) Crime No.280/2010 for an offence punishable under Sections 143, 147, 149, 324, 332, 353, 189 of the Indian Penal Code read with Section 135 of the Maharashtra Police Act.

(v) Crime No.470/2016 for an offence punishable under Section 135 of the Maharashtra Police Act.

10. In the reply itself, it is stated by the police that the husband of the first informant is a patient and having mental disorder and he is not traceable. That shows that the

present applicant was knowing that the first informant is the easiest prey for him to exploit her by giving false promises of marriage and has committed heinous offence of sexual intercourse with the said lady.

11. The contents of FIR on the face value show that the applicant has committed offence, especially when there is nothing on record to show or suggest that the FIR is lodged against the applicant with ill or mala fide intention.

12. The list of the aforesaid offence shows that the present applicant has a tendency to commit offences punishable under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

13. Thus, there is no merit in the application. Further, the FIR is not the outcome of any ill motive or filed with mala fide intention. Even there is a bar of Section 18 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. Thus, in totality, no case is made out.

The application is therefore rejected.

JUDGE