

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 5072 OF 2016

Ganesh Ramesh Hiwarkar,
Age: 28 years, Occupation: Service as PSI,
R/o: Pathardi, Tq: Pathardi,
District: Ahmednagar.

... **APPLICANT**

VERSUS

1. The State of Maharashtra.
2. Jayshri Narayan Matkar,
Age: 26 years, Occupation: Household,
R/o. Near Limbu Mangba Karyalaya,
Borude Mala, Ahmednagar.
Mobile No.7040482511.

... **RESPONDENTS**
[Respondent No.2 –
Orig. first informant.]

...
Mr. Joydeep Chatterji, Advocate for Applicant.
Mr. R. V. Dasalkar, APP for Respondent No.1 / State.
Mr. D. A. Bide, Advocate for Respondent No.2.

...

WITH

CRIMINAL APPLICATION NO. 6066 OF 2016

1. Machindra Ladoba Nagre,
Age : 65 years, Occu : Agri,
2. Dilip Machindra Nagare,
Age : 23 years, Occu : Education,

3. Somnath Dattu Nagare,
Age : 24 years, Occu : Labour Work,
4. Sunil Ashok Nagare,
Age : 26 years, Occu : Labour Work,
All R/o: Bramhani, Tq: Rahuri,
Dist. Ahmednagar.

... **APPLICANT**
(Orig. Accused No.1 to 4)

VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Tofkhana Police Station,
Ahmednagar, District Ahmednagar.
2. Jayashri Narayan Matkar,
Age: 26 years, Occupation: HH,
R/o. Near to Sindhu Mangal Karyalaya,
Borude Mala, Ahmednagar.

... **RESPONDENTS**
[Resp No.2 Orig. Complainant]

...
Mr. Vivek V. Tarde, Advocate for Applicants.
Mr. R. V. Dasalkar, APP for Respondent No.1 / State.
Mr. D. A. Bide, Advocate for Respondent No.2.
...

CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 08th August, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. Both the proceedings are filed under Section 482 of the
Code of Criminal Procedure for relief of quashing of FIR No.133 of

2016, registered with Tofkhana Police Station, District Ahmednagar, for the offences punishable under Sections 376, 376(D), 354, 323, 504 and 506 of the Indian Penal Code.

2 Both the sides are heard.

3 The Applicant from Criminal Application No.5072 of 2016 was working as a PSI at the relevant time. Applicant No.1 from the second proceeding is the father of the prosecutrix. Applicant No.2 is a brother of the prosecutrix and the remaining Applicants are the relatives of the prosecutrix. The prosecutrix was a married woman at the relevant time and was having issues. Her age was 26 years.

4 The prosecutrix has made allegations in the FIR given on 19th May, 2016 that in April 2013, when her mother was admitted in the hospital from Rahuri for operation and when she was living with her father at Bramhani, the father raped her three times.

5 The first informant has made allegations that in 6th month of the year 2014, one accused Subhash Karade raped her in the field where she had gone to do labour work.

6 The first informant has made allegations that in the 6th month of 2014, Applicant of Criminal Applicant No.5072 of 2016 had visited the place of her father and from there, she was taken by Applicant towards one field for making inquiry. The investigation was in other crime in which probably her husband was also involved alongwith one Karade. She has made allegations that on that day, Applicant Hiwarkar misbehaved with her and committed the offence of insult to her modesty by touching her body at various places. It is her contention that 3 days after the first incident, Hiwarkar contacted her as in the past he had given offer to help her husband in the case provided that she was ready to act as per his desire, to satisfy his lust. It is her contention that she refused to act as per his desire and after that the application filed for bail by her husband was rejected. It is her contention that Hiwarkar then said that only one chance was left with her husband like filing proceeding in Aurangabad Court and he again offered her to give help and so she went to the house of the father and there, on the backside, Hiwarkar and aforesaid Karade raped her.

7 She has made allegations that on 16th May, 2016, Applicant Dilip Nagare, who is brother, Applicant Somnath, who is

cousin and Applicant Sunil, who is also her relative, came to her house and there they raped her. The FIR was given on 19th May, 2016.

8 The learned counsel for Applicants submitted that the allegations are made against almost everybody by the prosecutrix and there is possibility that she wants to implicate everybody, who had not helped her. It is contended that the crime was registered against her husband and she has grievance that the Applicants had not helped her in the said crime.

9 The aforesaid kinds of submissions cannot be considered as defence in the matter like present one. There is medical record showing that the first informant was examined on 19th May, 2016 and so many injuries were found on her person and history of assault was given. There were injuries on upper lid, both wrists and even on lower limb. History of sexual assault was given. Thus, there is some record like medical certificate in support of the allegations made atleast against few Applicants. At this stage, it cannot be said that the prosecutrix has made false allegations against the Applicants, who include even her father. In view of the seriousness of the allegations,

this Court holds that no relief can be granted to the Applicants. In the result, the following order is passed:

ORDER

- I. Both the applications are dismissed.
- II. Interim relief, if any, is vacated.
- III. Rule is discharged.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]

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