

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

CRIMINAL APPLICATION (APPR) NO. 304 OF 2018
IN
CRIMINAL REVISION APPLICATION (REVN) NO. OF 2018
(Umang Yogesh Shahu .v. State of Maharashtra)

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

Court's or Judge's Orders

Shri E.W. Nawab, Advocate for the applicant.
Shri H.D. Dubey, APP for the respondent/State.

CORAM : M.G. GIRATKAR, J.
29TH NOVEMBER, 2018.

Heard.

This is an application for condonation of delay of ten days caused in filing the revision.

For the reasons stated in the application, the same is allowed. The delay is condoned.

CRIMINAL REVISION APPLICATION (REVN) NO. OF 2018.

Heard Shri Nawab, learned Counsel appearing on behalf of the applicant.

He has submitted that there is material contradiction in the statements of victim, her father, uncle etc. He has further submitted that one witness stated that the incident took place before two months, others stated that it was happened 25 days and the victim herself not stated about the date of the incident. The witnesses have stated the material fact in their statements about the extraction of money by the applicant. The victim also given golden ornaments to the applicant under the fear because applicant had taken one selfie. He was misusing that selfie. At last, there was demand

of sexual favour and, therefore, the victim was not telling anything to her parents also. Her mother taken victim into confidence and then only she disclosed about the real facts to her mother. Thereafter, her father went to Police Station and lodged report.

The applicant had moved the application under Section 482 of Code of Criminal Procedure for quashing of FIR before the Division Bench of this Court. The said application came to be dismissed by observing that the applicant was at liberty to move before the appropriate Court. Thereafter, the applicant moved before the trial Court by filing an application for discharge. Learned Sessions Judge had observed that there is prima facie material against the applicant and rejected the same.

Learned Counsel for the applicant has pointed out the decision in the case of *State of Haryana and others .v. Bhajanlal and others (reported in 1992 Supp (1) SCC 335)*. In this cited judgment, Hon'ble Supreme Court has given guidelines to the Court in what circumstances, FIR can be quashed.

The case in hand is not in respect of quashing of FIR. On the other hand, the application under Section 482 of the Code of Criminal Procedure for quashing FIR is already decided by the Division Bench of this Court. No relief was granted to the applicant.

While framing the charge what has to be seen by the trial Court is the material fact. While framing the charge, the trial Court has to see the prima facie case. What is prima facie case is also question of fact. Prima facie case means all the documents filed with the charge-sheet and mis reflect the commission of crime/offence. Learned Sessions Judge has,

after perusal of the charge sheet, rightly come to the conclusion that there is prima facie case against the applicant. Therefore, application for discharge came to be rejected.

I do not find any merit in the revision and there is no need to register the same. Hence, the same is rejected at the stage of admission itself.

JUDGE

*rrg.