

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.2112 OF 2019

Bhausahab Namdeo Mahanor,
Age : 32 Years, OccU. Nil,
R/o. Shekta Tq. Gevrai,
Dist. Beed.

.. APPLICANT

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station Pachod
Tq. Paithan, Dist. Aurangabad

2. Shanta d/o Pundlik Bargage @
Shanta W/o Ajinath Khedkar
Age : 23 Years, Occu. Household,
R/o. Mugaswada, Tq. Pathardi
Dist. Ahmednagar

..RESPONDENTS

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Advocate for Applicant : Mr. R. S. Deshmukh
APP for Respondent No.1: Mr. D.R. Kale
Advocate for respondent No.2 : Mr. N.R. Thorat

**CORAM :T.V. NALAWADE AND
K.K. SONAWANE ,JJ.**

DATE : 05th AUGUST, 2019.

JUDGMENT : [PER T.V. NALAWADE, J.]

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2. The proceeding is filed for relief of quashing of First Information Report No.10/2015 registered with Pachod Police Station, Tahsil

Paithan, District Aurangabad for the offence punishable under sections 354(D), 363, 366, 376(2)(N), 506 of Indian Penal Code and relief of quashing of the case bearing Session Case No. 262/2016, presently pending in the Court of Sessions Judge, Aurangabd is also claimed which is filed for the same offence.

3. During the arguments, learned counsel for the applicant, accused and learned counsel for the first informant submitted that the parties have settled the dispute.

4. The learned counsel for respondent-informant submitted that after the incident and registration of the crime, she got married. Her husband is also present in the Court hall, who is identified by the learned counsel for the informant. The husband submits that he has now one issue from respondent No.2 and he had one more issue but second issue died. He submits that he has also consented for taking such steps as they want to lead/live peaceful life in future. Submissions made show that the present applicant was also a married person but the learned counsel Shri. Deshmukh for the applicant submitted that at the relevant time the wife was not living with the applicant and then the incident took place.

5. The First Informant Report and the record show that at the relevant time the age of the prosecutrix was 19 years. The applicant is

friend of her brother and applicant used to visit the residential place of the prosecutrix. She has described in the incidents, in which she was taken away from the residential place to two different places, where the applicant had taken sexual intercourse with her. She was traced by police on 15.01.2015 but on that day report was not given and it is contention that only after consulting the parents she gave the report.

6. In view of the aforesaid submissions and the circumstances that the prosecutrix has no intention to give evidence against the applicant this Court holds that relief needs to be given. Learned counsel for the applicant placed reliance on the similar order passed by this Court in **Criminal Application No. 1526 of 2019 dated 19.06.2019** (*Sunil S/o Bapurao Landge Vs. The State of Maharashtra*). He submits that in that case also the parties were major though the applicant was unmarried but engaged. In view of this circumstances, this Court holds that application needs to be allowed and the application is accordingly allowed. Relief is granted in terms of prayer clause 'B'. Rule made absolute in those terms.

[K.K. SONAWANE]
JUDGE

[T.V. NALAWADE]
JUDGE