

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.2872 of 2018

- 1) Ravindra s/o Baburao Salve,
Age 48 years, Occupation : Service,
R/o Rajegaon, Taluka Majalgaon,
District Beed.
- 2) Suman w/o. Ravindra Salve,
Age 45 years,
Occupation: Household,
R/o Rajegaon, Taluka Majalgaon,
District Beed. **.. Applicants.**

Versus

- 1) The State of Maharashtra,
Through the Investigation Officer,
Police Station, Majalgaon Rural,
District Beed.
- 2) Nikita d/o. Navnath Mule,
Age 17 years,
Occupation: Education,
Through under guardian
Navnath s/o Rambhau Mule,
R/o Rajegaon, Taluka Majalgaon,
District Beed. **.. Respondents.**

Shri. P.N. Mule, Advocate, holding for Shri. Sharad S. Solanke, Advocate, for applicants..

Shri. S.J. Salgare, Additional Public Prosecutor, for respondent No.1.

Shri. Y.K. Bobade, Advocate, for respondent No.2.

**Coram: T.V. NALAWADE &
MANGESH S PATIL, JJ.**

Date : 5 APRIL 2019

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

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

2) The application is filed for the relief of quashing and setting aside CR No.244/2018 registered with Majalgaon Rural Police Station, District Beed for offences punishable under sections 376(2)(j), 354-A(i), 504, 34 of Indian Penal Code, sections 4,8,12 and 17 of the Protection of Children from Sexual Offences Act and under section 67-B of the Information Technology Act. The relief is claimed for quashing of the case to the extent of the applicants which is given Special Case No.1/2019 and which is pending in Majalgaon Court.

3) The crime came to be registered on the basis of report given by the victim girl who was aged about 17 years at the relevant time. She was studying in 12th

Standard. It is her contention that when she was studying in 11th Standard, Mahesh, a son of the applicants, started contacting her on her mobile phone and expressed that he wanted to become her friend. It is her case that when she avoided him, sister of Mahesh contacted her and she requested the victim girl to allow Mahesh to have talk with her. It is contended that on one occasion Mahesh sent a message that he was in love with her. The victim girl warned Mahesh not to do such things again. She did not disclose this incident to her parents.

4) It is the contention of the victim girl that due to insistence of the sister of Mahesh she started having talk with Mahesh. Mahesh was studying in Beed but he used to visit Aurangabad to see her cousin sister. It is her contention that she had then friendship with Mahesh and she was going for outing with Mahesh. It is contended that in January 2018 when Mahesh and his cousin sister had taken her to Bibika Makbara for outing, Mahesh snatched her photographs without taking her permission and then started blackmailing her. It is contended that he said that the victim girl should marry with him otherwise

he would publish the photographs on social media and would defame her.

5) It is the contention of the victim girl that on one occasion the mother of Mahesh, applicant No.2, contacted her and said that the victim girl should marry Mahesh and she should not disclose about the relationship to her parents. She expressed that if something happens to Mahesh she would hold the parents of the victim girl responsible for that incident.

6) It is the contention of the victim girl that in April 2018 when she had been to her native place, there Mahesh contacted her and said that he would return the photographs to her in the room of his friend. It is her contention that Mahesh took her to the room of one Kishsore and there he requested her to allow him to have sexual relation with her. It is contended that when she said no, Mahesh gave threats and by using force he took sexual intercourse with her. It is contended by her that after doing such act he gave threats of life and said that he would make viral her photographs if she discloses the incident to anybody.

7) It is the contention of the victim girl that, when she went to village Rajegaon she disclosed the incident to her parents. It is her contention that her parents called Shridhar, uncle of Mahesh to see that they convince Mahesh to behave well. It is contended that after some time on that day father of Mahesh came to their house and he showed the photographs to her parents and said that they were ready to perform marriage of Mahesh with the victim girl. It is contended that the father of Mahesh asked the father of the victim girl as to whether he was ready to give the victim girl in marriage. It is contended that when her parents refused to give the victim girl in marriage, parents of Mahesh said that they would convince Mahesh and they would see that the photographs are deleted from his mobile handset. It is contended that in the presence of her father in one mobile shop the data from the mobile handset of Mahesh was deleted and for few days after that Mahesh did not do anything against her.

8) It is her contention that after few days Mahesh again started harassing her and started saying that he

would destroy her career. It is her contention that on 22-8-2018 when Mahesh was showing her photographs to his friend, her brother Abhiyan was present there by chance and then they realised that Mahesh was still having the photographs. After that she decided to approach police and the report came to be given on 23-8-2018.

9) This Court has seen the papers of investigation. It can be said that even if the allegations made by the victim girl are accepted as they are, they show that the parents of Mahesh, present applicants, were ready to accept the victim girl in marriage for Mahesh but when the parents of the victim girl refused to give the victim girl in marriage to Mahesh, they did not insist for the marriage. The record also shows that they promised to see that Mahesh does not harass the victim girl and they also took steps like deleting the photographs from the mobile handset of Mahesh in the presence of the father of the victim girl.

10) The main allegations are against Mahesh. It is not possible to infer that present applicants had any way

helped Mahesh or had abetted Mahesh to do the aforesaid act. These days on most of the occasions youngsters do not listen to their parents. In such cases, parents are themselves harassed due to the conduct of their children. If they are made to face the trial in such cases, it will be injustice against them and nothing can be achieved by trying them for such offences. This Court holds that reliefs needs to be given to the applicants.

11) In the result, the application is allowed to the extent of the present applicants. Relief is granted in terms of prayer clause (B-1). Rule is made absolute in those terms.

Sd/-
(MANGESH S PATIL, J.)

Sd/-
(T.V. NALAWADE, J.)

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