

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 139 OF 2015

Dinesh Jayantilal Rathod

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Niranjan Mundargi for the Applicant.

Mr. Mohd. Shine a/w Manish Rai for the Respondent No.2

Mr. K.V. Sase, APP for the Respondent/State.

**CORAM : B.P.DHARMADHIKARI, &
REVATI MOHITE DERE, JJ.
DATE : 25th JANUARY, 2019**

P.C.:

1. Heard respective Counsel. Perused order dated 14.03.2016.
2. It appears that DNA report mentioned in order of this Court dated 14.03.2016 is questioned by complainant who points out the errors and mistake committed in the process.
3. Relief in present application is to quash and set aside the FIR and also consequential charge-sheet. It is claimed that offence under Sections 376 (ii)(n), 417, 504, 506(2) IPC has been registered because Applicant did not yield to the demand. Our attention is also invited to a report filed earlier on 22.09.2014 by Applicant to support it. Counsel appearing for complainant denies involvement of complainant in the act, complained of in report on 22.09.2014. He

states that in that matter charge-sheet is also filed and complainant is not even made an accused at all.

4. Contention of Petitioner before this Court is as per statement of complainant dated 31.10.2014, she was aware of Applicant's marital status and has maintained relationship with him from 2009 till 2014. It is further submitted that assertion that Applicant had promised to obtain divorce and to marry her, in statement with report is *per se* unacceptable.

5. Counsel for Complainant and learned APP state that charge-sheet is already filed and whether there is any assurance of obtaining divorce or not, is a disputed question.

6. This statement of complainant dated 31.10.2014 shows knowledge of marital status. She has contended that he then assured her of obtaining divorce from his wife and under that pretext, established and maintained relations. She also states that she aborted child begotten in the process.

7. It appears that relationship between parties lasted from 2009 to August 2014 and in report the complainant points out non fulfillment of promise of obtaining divorce. She claims that her consent for relations was obtained by giving that promise.

8. The Applicant has urged that because he did not pay the

amount as demanded, a false complaint has been lodged. He is relying upon report dated 22.09.2014 to buttress said submission.

9. We find that several disputed questions arise which cannot be gone into here. In this situation, we kept all contentions open and with liberty to Applicant to raise the same at appropriate juncture, in appropriate forum, dispose of this application.

(REVATI MOHITE DERE, J.)

(B.P.DHARMADHIKARI, J.)