

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO.298 OF 2014**

The State of Maharashtra
Wadgaon Nimbalkar Police Station

... Applicant
(Orig. Complainant)

District - Pune

Versus

Balu @ Balasaheb Mahipati Narute

... Respondent
(Orig. Accused No.4)

Ms. Pallavi N. Dabholkar, APP for State/applicant.

Mr.Rahul S. Kadam for respondent.

CORAM : N.J. JAMADAR, J.

DATE : 20th DECEMBER, 2019.

P. C. :-

1. Heard the learned counsel for the parties.
2. The challenge in this revision application is to an order on an application for discharge under section 227 of the Code of Criminal Procedure, 1973 ('the Code') passed on 29th March 2014 by the learned Additional Sessions Judge, Baramati, whereby the learned Additional Sessions Judge was persuaded to discharge the accused No.4-Balu alias Balasaheb Mahipati Narute, respondent herein, for the offences punishable under sections 363, 376 and 406 read with 34 of the Indian Penal Code, 1860 ('Penal Code').

3. The respondent was arraigned in C.R. No.118/2012 registered with Vadgaon Nimbalkar Police Station, Pune for the offences

punishable under sections 363, 376 and 406 read with 34 of Penal Code along with three co-accused, namely, Dada Bramhadeo Ghodke (accused No.1), Satpute (accused No.2), who is brother in law of Dada Ghodke, and Malhari Laxman Sodner, accused No.3.

4. The indictment against the accused was that on 27th October 2011, the accused No.1 made a false representation to the victim that her mother was hospitalized and made her to accompany him. Accused No.1 allegedly gave a tablet on the pretext that it would relieve her of headache and the victim thereafter found herself in room admeasuring 10 x 15 sq.ft. The door of the said room was locked from outside. The accused No.1, thereafter, came and subjected her to sexual abuse. The accused No.1 kept the victim in confinement for about seven days. On 5th November 2011, accused No.1 represented to the victim that he would drop the victim at her mother's place. The accused No.1 also relieved her of the gold ornaments, which the victim was then wearing, on the pretext that there was threat of robbery. Accused No.1 allegedly dropped the victim a kilometer ahead of Indapur bus stop.

5. At this juncture, the role of the respondent herein comes in

picture. The prosecution has alleged that the respondent was assisting accused No.1 and the respondent was apprehended when he made a call on the cell phone of the mother of the victim. Thus, the respondent was also a privy to the crime.

6. The learned Additional Sessions Judge found that there was no sufficient material to *prima-facie* demonstrate the complicity of the respondent for the offences arraigned against him. The learned Additional Sessions Judge was, thus, persuaded to discharge the respondent.

7. The learned APP urged that in the face of the material on record, the learned Additional Sessions Judge could not have allowed the application under section 227 of the Code of Criminal Procedure, 1973. The learned APP took me through the report of the first informant and the statements of the victims' mother Surekha, uncle Sampat and her cousin Somnath, to lend support to the submission that report under section 173 and the documents annexed with it make out a *prima facie* case against the respondent.

8. I find it rather difficult to accede to the submission of the learned APP. The gravamen of indictment is against accused No.1

Dada Bramhadeo Ghodke. The prosecution proceeds on the premise that after sexually exploiting the victim and relieving of her the gold ornaments, the accusing No.1 dropped the prosecutrix a kilometer ahead of Indapur bus stand. The victim allegedly saw her mother and was about to meet her when a commotion occurred and the respondent was allegedly apprehended by her uncle and cousin. Evidently, the prosecution does not attribute any role to the respondent in the alleged abduction/exploitation of the victim. Nor the material on record shows any nexus between the respondent and the crime.

9. In this backdrop, it cannot be said that there was a strong suspicion which warranted framing of the charge against the respondent either as an accessory before the act or accessory after the act. The learned Additional Sessions Judge was, thus, justified in discharging the respondent. In exercise of the revisional jurisdiction, no interference is warranted in the impugned order.

10. Hence, the revision application stands dismissed.

(N.J. JAMADAR, J.)