

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1366 OF 2020

Rahul S/o Eshwant Tulse,
 Age : 33 years, Occu. Service,
 R/o: C/o Ajay Manishiram Pund
 City Lawn, Swarg Niwas,
 Dasare Nagar, Ahmednagar.

.. PETITIONER

VERSUS

1. The State of Maharashtra,
 Through the Police Station Officer,
 Satara Police Station, Satara.

2. Bharti w/o Sandu Jadhav,
 Age : Major, Occu. Self employed,
 R/o: Flat No. S-9, Amrut Sai Plaza, Phase-2,
 Silk Mill Colony, Near Railway Station
 Aurangabad, Tq. & Dist. Aurangabad.

.. RESPONDENTS.

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Mr. Niteen V. Gaware, Advocate for petitioner
 Mr. K. D. Munde, APP for respondent No. 1 – State

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**CORAM : T. V. NALAWADE AND
 M.G. SEWLIKAR, JJ.**

DATE : 14th DECEMBER, 2020

ORDER :-

The petition is filed for relief of quashing of First Information Report (FIR) bearing Crime No. 499 of 2018 registered with Satara Police Station, Aurangabad, for the offences punishable under Sections 354, 376(2)(n), 504 and 506 read with Section 34 of Indian Penal Code (IPC). The relief is claimed for quashing of charge-sheet filed in this crime for the same Sections. Both the sides are heard.

2. Crime is registered on the basis of report given by respondent No. 2 prosecutrix, on 01-12-2018. It is her contention that in the past, she was living at Ajanta Complex, Aurangabad and there due to one lady she became acquainted with accused No. 1. Accused No. 1 was employed in College as Professor. She was living alone and on one day accused No.1 entered in her room and said that he would help her in taking admission in the College. It is her contention that then he closed the door and raped her. It is contended that he gave threat of life to her. It is her contention that he virtually exploited her sexually and then he made her arrangement in a flat of present applicant.

3. It is contention of the informant that, the applicant then started asking her for sexual favours and he started making advancement for that. It is her contention that when she started living in the flat of applicant, present applicant attempted to exploit her sexually, and for that, he made advances against her. It is contended that as she was alone, having kid and being a destitute lady, she could not approach the Police, immediately. It is contended that ultimately she decided to approach the Police as the present applicant also insisted that the informant should allow him to keep physical relations with her.

4. It is not disputed that the informant is living in flat of the applicant. The contentions of the informant show that he is totally denying everything. He has contended that society managing the building, where he is having flat, has some complaints against the informant, so, he had asked the informant to vacate the flat. It is contended by the applicant that when he asked for rent, the informant became angry and she gave report to Police. It is his contention that at

the relevant time, he was working in the Nationalized Bank, Branch at Ghodegaon, so it is not possible that at Aurangabad, he done such things.

5. The applicant has not stated anything about the rent, which informant was to pay and the agreement of any kind. In view of these circumstances, it can be said that the informant's contention about main accused that he had made arrangement for her stay in the flat of the applicant cannot be discarded. The informant is a destitute lady. In view of circumstances of the matter, at this stage, she cannot be disbelieved in respect of contention that the applicant committed offence punishable under Section 354 of IPC. The contention of the applicant that, he was working at Ghodegaon in the Nationalized Bank at the relevant time, would not help to him as the distance between Ghodgaon to Aurangabad is near about 70 kms. and a person requires one and half hour to reach at Aurangabad. In any case, such defence cannot be considered at this stage. This Court holds that relief cannot be granted in favour of the applicant. In the result, the Criminal Writ Petition stands dismissed.

Sd/-

[M.G. SEWLIKAR]
JUDGE

Sd/-

[T. V. NALAWADE]
JUDGE

MTK