

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2294 OF 2019

Shital d/o. Arjun Bagal @
Shital w/o. Ganesh Mule

....Applicant.

Versus

The State of Maharashtra & Anr.

....Respondents.

Mr. S.J. Salunke, Advocate for applicant.

Mr. R.D. Sanap, APP for respondent/State.

Mr. Anand Kulkarni, Advocate for respondent No. 2 (appointed).

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

DATED : 12/10/2020.

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

1. The proceeding is filed for relief of quashing of F.I.R. No.187/2019 registered with Tuljapur Police Station, District Osmanabad and also the case filed in that crime for offences punishable under sections 354, 354-A, 354-D, 506 and 34 of the Indian Penal Code and also section 12 of the Protection of Children from Sexual Offences Act, 2012. Both the sides are heard.

2. The crime is registered on the basis of report given by respondent No. 2 who was aged about 14 years at the relevant time. She is represented by her mother in the present proceeding. According to her, from prior to the date of F.I.R. she was harassed by

the present applicant, brother of the present applicant and one more boy. The victim girl was studying in 10th standard and every day, she used to go to Tuljapur from her village Sangvi-Mardi for attending classes. Her father was working as truck driver and he used to visit residential place once or twice in a month.

3. According to the victim girl, on 13.5.2019 when she was at public water tap for taking water, two boys Anil Pawar and Deepak Bagal came there. It is her contention that Anil Pawar held her hand and asked her as to why she was not giving consent for marrying with Deepak Bagal. It is her contention that Anil Pawar gave threat and asked her to keep in touch with Deepak Bagal. It is her contention that she somehow escaped and rushed towards the house. It is her contention that about one month prior to 13.5.2019 she was intercepted by Anil Pawar in front of house of Deepak Bagal and he had asked her to give a call to Deepak Bagal and he had forcibly handed over her the mobile number of Deepak Bagal. It is her contention that almost on every day when she used to return from tuition, Anil used to harass her by asking her to give a call to Deepak Bagal. It is her contention that out of anger on one day she called Deepak Bagal and then Deepak asked her to see his sister Sheetal, the present applicant. The victim girl then told Deepak that her sister had already met her and she had asked as to whether she was ready to marry with Anil. It is her contention that she had

expressed that she wanted to complete her education and she had no intention to marry with him at that age. It is her contention that Deepak then started giving calls on her mobile phone, but when the other persons of her family used to pick up mobile phone, he used to switch off his mobile phone.

4. It is the contention of the victim girl that due to harassment she had expressed the grievance to elders and then Police Patil and Sarpanch and other persons had tried to convince Anil Pawar and Deepak Bagal to behave well. It is her contention that even after such understanding given by elders these two boys continued to harass her and they used to give her treatment due to which she used to feel molested. It is contended that on 13.5.2019 the incident which took place was in continuity of previous transactions. It is her contention that due to this harassment and even after giving of the understanding to these persons as these persons had continued to harass her she was required to approach the police.

5. The statement of the victim girl was recorded under section 164 of Cr.P.C. and in that statement, she had made more specific allegations against present applicant. The applicant is sister of Deepak and she is married. It is the statement of victim girl that few days prior to the incident dated 13.5.2019 present applicant had

called her to her house and she had said that her brother Deepak wanted to marry with her. It is her contention that she had expressed that she was not ready to marry with him and she will not go against her parents. It is her contention that on many occasions applicant used to give a call to her and after picking up phone by her Deepak used to talk with her and such incidents were increasing.

6. In the papers of investigation, there are statements of persons like Sambhaji Gaikwad, mother of informant, Laxman Gaikwad, Govind Jadhav, Sanjay Bagal and others. These statements are consistent with the allegations made by the victim girl against all the three accused and they are consistent with incident which took place on 13.5.2019. These statements were recorded on 14.5.2019.

7. The aforesaid material shows that there is more than sufficient material to make out case that Deepak, Anil and present applicant were acting together. When the informant was studying in 10th standard and she had just completed 14 years of age they harassed her in aforesaid manner. In view of this material, this Court holds that it cannot be said that present applicant was not involved in the incident and in the attempt which her brother Deepak was making against the victim girl. This Court holds that it is not a fit case to grant the reliefs claimed. In the result, the application stands dismissed. The fees of the appointed counsel for respondent No. 2 is

quantified as Rs.4,000/- (Rupees four thousand) and it is to be paid through High Court Legal Services Sub Committee.

[M.G. SEWLIKAR, J.]

[T.V. NALAWADE, J.]

ssc/