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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

908 CRIMINAL APPLICATION NO.3213 OF 2021

**SHAFIK YUSUF SHAIKH
VERSUS
THE STATE OF MAHARASHTRA**

Mr. Abhishek Kulkarni, Advocate for the applicant
Mr. S. P. Sonpawale, APP for the respondent/State

CORAM : N. R. BORKAR, J.

DATE : 21-12-2021

P. C.

. This application under Section 482 of the Code of Criminal Procedure takes an exception to the order dated 04-12-2021 passed by the learned Additional Sessions Judge-2, Newasa, Dist. Ahmednagar below Exh.24 in Sessions Case No.02 of 2021.

2. The applicant who is an accused in Crime No. 295 of 2020 registered at Newasa Police Station for the offences punishable under Sections 376 and 506 of the Indian Penal Code had filed an application for discharge. The trial court rejected the said application by the order impugned.

3. I have heard the learned counsel for the applicant and learned APP for the respondent State.

4. The learned counsel for the applicant submits that even if the case of the prosecution is accepted as it is, the same would not constitute the offence punishable under Section 376 of the IPC. It is submitted that there is delay in lodging the FIR. It is submitted that deed of compromise dated 05-02-2020 executed between the parties clearly falsify the case of the prosecution. It is submitted that considering the facts and circumstances, the prosecution in its reply has rightly conceded to the prayer of the applicant for discharge. It is submitted that the trial court was, thus, not justified in rejecting the application for discharge.

5. I have perused the report lodged by the prosecutrix.

6. It appears from the report that the present applicant sexually exploited the prosecutrix by blackmailing her on the basis of some recorded conversation between them. The specific statement of

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the prosecutrix that the present applicant committed sexual intercourse with her against her wish cannot be doubted at this stage. Thus, no interference is called for in the order impugned. The application is dismissed.

7. The reply filed before the trial court by the learned Additional Public Prosecutor annexed to the present application at Page No. 130 to 133 is shocking. The Registrar (Judicial) shall forward the copy of the reply filed by the learned Additional Public Prosecutor to the Principal Secretary, Law and Judiciary for appropriate action.

[N. R. BORKAR, J.]

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