

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

CRIMINAL WRIT PETITION NO. 1298 OF 2021

Nitin Dinesh Rawal,

Age : 28 years,

Residing at : 13/204, Patliputra Nagar,

New Link Road, Jogeshwari West,

Mumbai 400 102.

.... Petitioner

Versus

1) The State of Maharashtra
(Through Oshiwara Police Station)

2) Meena Ganshyam Jaiswal Nee

Meena Dilipkumar Jatva,

Age : 40 years, Occupation : Housewife,

Residing at : Room No. 214,

Sangam Society (Citymax builder),

Near Patliputra Relief Road,

Jogeshwari West, Mumbai 400 102

....Respondents

AND

CRIMINAL WRIT PETITION NO. 1299 OF 2021

Krishna Dinesh Rawal,

Age : 26 years,

Residing at : 13/204, Galaxy Apartment,

Patliputra Nagar, New Oshiwara Link Road,

Jogeshwari West, Mumbai 400 102.

.... Petitioner

Versus

1) The State of Maharashtra
(Through Oshiwara Police Station)

2) Meena Ganshyam Jaiswal Nee

Meena Dilipkumar Jatva,

Age : 40 years, Occupation : Housewife,

Residing at : Room No. 214,

Sangam Society (Citymax builder),

Near Patliputra Relief Road,

Jogeshwari West, Mumbai 400 102

....Respondents

Mr.Adnan Shaikh for petitioner in both petitions.
Smt. A.S. Pai, PP for respondent No.1-State.

**CORAM : S. S. SHINDE &
N.J. JAMADAR, JJ.
DATE : 13TH AUGUST 2021**

PC :

1. The petitioners, who are brothers, have preferred these petitions to quash and set aside the First Information Report No.336/2020, registered at Oshiwara Police Station, Mumbai, for the offences punishable under sections 376, 376(2)(n), 504, 506, 323 read with section 34 of the Indian Penal Code, 1860 ('the Penal Code'), at the instance of the respondent No.2-prosecutrix.
2. Mr.Nitin, petitioner in Writ Petition No.1298 of 2021, has invoked the extraordinary jurisdiction of this Court on the premise that the relationship, which the petitioner and prosecutrix had, was consensual. The prosecutrix has lodged the first information report against the petitioner and his brother Krishna, petitioner in Writ Petition No. 1299 of 2021, with the allegation that the petitioner had maintained physical relations with her on the false promise of marriage. In fact, the prosecutrix, being a married woman, could not have solemnized marriage with the petitioner.
3. An earnest endeavour was made by Mr. Shaikh, the learned

counsel for the petitioner, to impress upon the Court that the allegation in the FIR, even if taken as they stand, do not make out the offences against the petitioner. It was further urged that Mr. Nitin never refused to solemnize marriage with the prosecutrix.

4. We have perused the allegations in the first information report. We are afraid to accede to the submission of Mr. Shaikh that the allegations in the FIR, taken at their face value and in their entirety, do not make out the offences for which, the brother duo, is arraigned. There are clear and explicit allegations to the effect that Mr. Nitin initially established rapport with the prosecutrix through her minor son and had forcible physical relations on the promise of marriage. What exacerbates the situation albeit *prima-facie* is the allegation that Mr. Nitin (petitioner in Writ Petition No.1289 of 2021) forced the prosecutrix to have physical relations with Mr. Krishna (petitioner in Writ Petition No.1299 of 2021), as a condition to marry Mr. Nitin, and recorded the video thereof. The prosecutrix further alleged that the brother duo again attempted to forcefully subject her to physical relations and, on her refusal, she was assaulted.

5. In the face of these allegations, which are of grave nature, the prayer for quashment of the FIR, based on alleged consensual

relations between the prosecutrix and Mr. Nitin, *ex-facie*, does not deserve countenance.

6. We are, thus, not persuaded to entertain the petitions.

7. The petitions stand rejected.

8. Needless to clarify that the observations are *prima-facie* in nature and the learned Sessions Judge shall decide all the issues which may arise for consideration in the proceedings arising out of First Information Report No.336 of 2020 uninfluenced by the aforesaid observations.

[N.J. JAMADAR, J.]

[S.S. SHINDE, J.]