

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 56 OF 2018

Sachin s/o Bhimrao More,
Aged about : 28 yrs., Occ. : Service,
R/o. Railway Colony, Shegaon,
Tq. Shegaon, Dist. Buldana.

....APPLICANT

// VERSUS //

1. State of Maharashtra,
Through P. S.O., P. S. Khadan Akola,
Tq. Dist. Akola And
2. State of Maharashtra,
Through P. S.O., P. S. Shegaon,
Dist. Buldhana.
3. Smt. Rupali Rajendra Sontakke,
Aged about 24, Occu. Nursing,
R/o. Bhim Nagar, Railway Quarter,
R.B.4-T, Near Water Tank, Sawangi
Meghe, District Wardha.

.... NON-APPLICANTS

Shri N. R. Tekade, Advocate for the applicant.

Ms. Mayuri Deshmukh, A.P.P for the non-applicant Nos.1 & 2/State.

Shri R. M. Daruwala, Advocate (Appointed) for the non-applicant No.3.

**CORAM : Z. A. HAQ AND
AMIT B. BORKAR, JJ.**

DATE : 27.01.2021.

ORAL JUDGMENT : [PER: Z. A. HAQ, J.]

1. Heard.

2. **Rule.** Rule made returnable forthwith.

3. This application under Section 482 of the Code of Criminal Procedure is filed by the accused praying that First Information Report No.501 of 2017 for the offences punishable under Sections 376(2)(n), 417 and 506 of the Indian Penal Code and First Information Report No.0215 of 2017 registered against the applicant at the behest of the non-applicant No.3 with Police Station, Shegaon, District Buldhana for the offences punishable under Sections 324 and 506 of the Indian Penal Code be quashed. The applicant is undisputedly husband of the non-applicant No.3.

4. The contents of report lodged by the non-applicant No.3 on the basis of which First Information Report No.501 of 2017 is registered against the applicant show that the applicant (aged about 28 years) and the non-applicant No.3 (aged about 24 years) had been in relationship for a considerable period. According to the non-applicant No.3, the applicant had sex with her in a Theatre on 10.09.2016 while the movie was going on, and had recorded the act and then blackmailing her, continued relationship with the non-applicant No.3. The marriage between the applicant and the non-applicant No.3 was solemnized on 29.12.2016 and the report is lodged on 28.05.2017. There are several matrimonial disputes

between the parties including petition for Restitution of Conjugal Rights and petition for Decree of Divorce.

5. With the assistance of learned Advocates for the applicant and non-applicant No.3 and learned A.P.P. for the non-applicant Nos. 1 and 2, we have gone through the report lodged by the non-applicant No.3 and the other material placed on record. At the time of hearing, charge-sheet which is ready but not filed, was also produced by the learned A.P.P. for perusal. We find that the offences alleged against the applicant are not made out. The accusations made by the non-applicant No.3 are vague and are not corroborated by any other material.

6. There is a dispute about payment of interim maintenance to the non-applicant No.3 of which this Court took note and directed the parties to file affidavit pointing out the amount of maintenance payable to the non-applicant No.3. The applicant has filed affidavit sworn on 25.01.2021 and has stated that he has deposited amount of Rs.83,400/- on 14.10.2019 and further amount is deposited on various dates. It is stated that the applicant has paid the entire amount of maintenance as per the order of the Family Court. This fact is disputed on behalf of the non-applicant No.3 however, the non-applicant No.3 has not filed any affidavit.

7. The learned Advocate for the applicant, on instructions from the applicant who is present in the Court, stated that if any amount is found due and payable and is ascertained by the Family Court where Divorce Petition No.83 of 2019 is pending, the amount will be deposited by the applicant before the Family Court within one month from the date of determination.

8. We accept the undertaking given on behalf of the applicant and pass the following order :-

i] First Information Report No. 501 of 2017 registered with the non-applicant No.1- Police Station against the applicant for the offences punishable under Sections 376(2)(n), 417 and 506 of the Indian Penal Code is quashed.

ii] First Information Report No.0215 of 2017 registered against the applicant with Police Station, Shegaon, District Buldhana for the offences punishable under Sections 324 and 506 of the Indian Penal Code and consequent charge-sheet are also quashed.

iii] The applicant and the non-applicant No.3 shall appear before the Family Court, Akola on 23.03.2021 in Divorce Petition No.83 of 2019 and shall putforth their submissions regarding the

amount of maintenance payable by the applicant to the non-applicant No.3.

iv] The Family Court shall take decision on the issue till 09.04.2021 and if any amount is found payable by the applicant to the non-applicant No.3, the same shall be paid by the applicant to the non-applicant No.3 till 05.05.2021.

If the amount is not paid, the Family Court shall refer the matter to this Court for proceeding against the applicant under the Contempt of Courts Act, 1971.

9. Rule is made absolute in the above terms.

Fees of the Advocate appointed to represent the non-applicant No.3 be paid as per the Rules.

JUDGE

JUDGE