

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

CRIMINAL APPLICATION (APL) NO. 298 OF 2016

1. Virendra Singh S/o Rajendra Singh,
Aged about : 42 years,
Occupation : Service.
2. Manoj Singh S/o Arjun Singh,
Aged about : 36 years,
3. Sourabh Singh S/o Rajendra Singh,
Aged about : 24 years,
Occupation : Service.
4. Virendra Singh S/o Dharamdeo Singh,
Aged about : 29 years,
Occupation : Service.

All residents of Shiv Nagar,
Wadgaon, Chandrapur, Tahsil
and District Chandrapur.

... APPLICANTS

.VERSUS

1. The State of Maharashtra,
Through Police Station Officer,
Police Station Durgapur,
Tahsil and District Chandrapur.

(Amendment carried
out as per Court order
Dated 27/03/19)

2. Puja Harishchandra Deshkar,
Aged about Major,
Occupation : Woman Security Guard,
Resident of Indira Nagar, Mul Road,
Chandrapur, Tahsil and District
Chandrapur.

... NON-APPLICANTS

 Shri S. P Bhandarkar, Advocate for applicants.
 Shri T. A. Mirza, APP for non-applicant No.1-State.

**CORAM : Z. A. HAQ AND
AMIT B. BORKAR, JJ.
DATED : 10.3.2021**

ORAL JUDGMENT (PER : AMIT B. BORKAR, J.) :

1. By this application under Section 482 of the Code of Criminal Procedure, 1973, the applicants have challenged registration of the First Information Report No.90/2015 dated 9.11.2015 registered with the non-applicant no.1 - Police Station for offences punishable under Sections 354-A, 354-D and 506 read with Section 34 of the Indian Penal Code and the Charge-sheet dated 22.4.2016.

2. The non-applicant no.2 was working with the Company of the applicant no.1 from 10.11.2014. It is alleged that applicant no.1 was seeking sexual favours from non-applicant no 2. It is further stated in February 2015 applicants offended modesty of non – applicant no 2 by making obscene comments . It is further alleged that the in April 2015 applicants offended modesty of non-applicant no 2 by touching her body parts.

3. The applicants have, therefore, filed present application challenging registration of the First Information Report. On 25.4.2016, this Court issued notice to the non-applicants and by

way of ad-interim order it was directed that Charge-sheet shall not be filed without leave of this Court. On 27.7.2016, this Court issued Rule and confirmed ad-interim relief granted earlier.

4. The non-applicant no.1, in pursuance of the said notice, filed reply stating that the applicants have misused their position and have committed sexual intercourse with the non-applicant no.2 under the pretext of protecting her employment. It is stated that there is sufficient material available with the prosecution, which shows the involvement of the applicants in the crime as alleged against them.

5. The non-applicant no.2 has filed her reply and has stated that there was no delay in filing First Information Report. There is sufficient material against applicants .

6. During the pendency of present application, Charge-sheet came to be filed against the applicants and, therefore, the applicants have amended the present application challenging the Charge-sheet filed against the applicants.

7. We have carefully considered the allegations in the First Information Report and the statements of witnesses recorded by the prosecution. The service of non-applicant no. 2 was terminated on

1.4.2015. First Information Report came to be lodged against applicants on 9.11.2015.

8. We have carefully considered the statements of the witnesses, which are recorded by the prosecution. The witnesses have stated that they have never seen the applicants along with the non-applicant no.2 nor they have heard anything about it.

9. The statements of the witnesses recorded by the prosecution, which do not support the case of the prosecution and from the accusations in the First Information Report, it appears that since applicant no. 1 terminated service of non-applicant no. 2, we are satisfied that the prosecution filed by the non-applicant no.2 is not legitimate prosecution. The material brought on record by the prosecution is not sufficient fulfill ingredients of offences alleged against applicants. We are therefore satisfied that continuation of prosecution against the applicants would amount to abuse of process of the Court. We, therefore, pass the following order:

ORDER

First Information Report registered against the applicants bearing Crime No.90/2015 dated 9.11.2015 and consequent Charge-sheet dated 22.4.2016 for offences punishable under Sections 354-A, 354-D, and 506 read with Section 34 of the Indian

Penal Code are quashed and set aside.

Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE

Ambulkar