

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

941 CRIMINAL APPLICATION NO.476 OF 2022

**SAGAR VIJAY RAJALE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Dond Manoj A.
APP for respondent/State : Mr. S. D. Ghayal
Advocate for Respondent no. 1 : Mr. P. B. Salunke (appointed
Through Legal Aid Committee)

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**CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.**

DATED : 25TH NOVEMBER, 2022

PER COURT : -

1. The present applicants by invoking the powers of this Court under Section 482 of the Code of Criminal Procedure seek quashing of the proceedings i.e. RCC No. 245/2020 pending against them before learned Additional Sessions Judge, Newasa, Dist. Ahmednagar. The offence has been registered vide C.R. No. 29/2020 with Newasa Police Station for the offence punishable under Sections 376, 323, 504, 109 r/w 34 of the Indian Penal Code on the basis of FIR lodged by present respondent no. 2.

2. It will not be out of place to mention here that the present applicants are the original accused nos. 2 and 3. So far as accused no. 1 is concerned, he had filed Criminal Application no. 2173 of 2020 before this Court for quashing the proceedings and this Court, by exercising powers under Section 482 of the Code of Criminal Procedure, quashed the entire proceedings by order dated 12.01.2022.

3. Heard learned advocate Mr. Manoj Dond for the applicants, learned APP Mr. S. D. Ghayal for State and learned counsel Mr Pradeep B. Salunke for respondent no. 2.

4. Perusal of the FIR lodged by respondent no. 2 would clearly show that the main allegation in respect of committing rape, assault and abuses as well as criminal intimidation are against the original accused no. 1 – Vikram Ashok Gaikwad.

5. We have perused the entire charge-sheet. There is absolutely no mention about the name of the present applicants and role in the FIR dated 14.01.2020, however, in the supplementary
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statement recorded on 17.01.2020, she has stated that in the year 2019, accused no. 1 had taken her obscene photographs and thereafter he had threatened her to make those photographs viral. About 15 days thereafter, when her husband had gone for night duty, accused no. 1 went to her house and then she states that the fact about her husband went for night duty was told by the present applicants to accused no. 1. Except this statement, there is absolutely no evidence as regards the said fact. How she came to know that the present applicants had informed accused no. 1 about night duty of her husband, has not come on record by way of evidence. Even if we take the fact that the informant as well as the present applicants were residing in the same area, yet it is also to be noted that address of the accused no. 1 is also of the same address. She has further stated that accused no. 1 told her to give him a phone call at about 11:00 p.m. and threatened that if she does not give phone call, then he would make the photographs of the informant viral. She then stated that he gave phone call on her mobile at about 11:00 p.m. and after sometime he entered her house from the backdoor. Therefore, if we consider these facts from her supplementary statement itself, it does not appear that there is any substance or relevance also in the

statement (which is now not supported by any evidence) that the present applicants had informed accused no. 1 about the absence of the husband of the informant.

6. The supplementary statement dated 17.01.2020 further states that the present applicants had blackmailed the informant. Except the said statement, there is nothing in the charge-sheet. How they had blackmailed, what was their demand, nothing has been stated in the said supplementary statement. There is no further supplementary statement explaining the unexplained facts.

7. At the cost of repetition, it can be said that the allegations about rape and other evidence also in that respect appears to have been collected against accused no. 1 and this Court after assessing that evidence had formed the opinion while deciding the Criminal Application No. 2173 of 2020 that infact the allegations in the FIR show that there were consensual relationship between the respondent no. 2 and the original accused no. 1. If we consider this view taken by this Court earlier, then there was no room for the present applicants to play any role.

8. In view of these facts and the reasons stated above, this is a fit case where we should exercise our inherent powers as the case is squarely falling within the parameters laid down in **State of Haryana and others vs. Ch. Bhajan Lal and others** reported in 1992 AIR 604.

9. Criminal Application stands allowed in terms of prayer clause 'B' of the application.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE