

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

916 CRIMINAL APPLICATION NO.2683 OF 2021

AMOL NANDKUMAR NAIKWADI
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.S. Wakure, Advocate for applicant.
Mr. S.S. Dande, A.P.P. for respondent No. 1 - State.

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CORAM : **V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATE : 11-01-2022.

ORDER :

1. The applicant is seeking quashing of the proceedings vide Special Case No. 57/2021 pending before the Additional Sessions Judge, Osmanabad in respect of F.I.R. bearing No. 120/2021 registered with Dhoki Police Station, Taluka and District Osmanabad for the offences punishable under Section 354 of I.P.C. and under Sections 11 and 12 of the Protection of Children from Sexual Offences Act.

2. Learned Counsel for the applicant submits that the applicant has been falsely implicated in connection with the present crime. The applicant is also related to the victim and there is dispute in the family in respect of the house property and agricultural property. Learned Counsel submits that though the incident has allegedly taken place on 05.04.2021, there is inordinate delay in lodging the complaint. Learned Counsel submits that the complaint

has been filed on 10.04.2021 for which no explanation has been tendered. Learned Counsel submits that though the victim has alleged that on the day of incident, she left the house by making phone call to her English teacher Shri Bagwan Sir, however, the said teacher Ejaj Sattar Bagwan has stated in his statement that on that day the victim had not made any phone call to him. Learned Counsel submits that there is no connected evidence against the applicant. Thus, the proceedings are liable to be quashed.

3. We have carefully gone through the copy of charge-sheet, particularly the statement of victim recorded during the course of investigation. The incident had taken place on 05.04.2021. While she was returning from her class, the applicant allegedly outraged her modesty. It further appears that the victim could not tolerate the said incident of outraging of her modesty and even though she had disclosed the incident to the family members, no one has believed it for the reason that there are close relations between the two families. Consequently the victim has attempted to commit suicide by consuming pesticide. She was taken to the local hospital and thereafter shifted to Civil Hospital, Aurangabad. In view of the same, we do not find any substance in the submission of the learned counsel for the applicant that delay has not been explained and there is an inordinate delay in lodging the complaint.

4. In the given set of allegations, there is triable case against the applicant. We cannot consider probable defence of the applicant / accused. Furthermore, we cannot go through the details

of the statement of witnesses recorded during the course of investigation and marshal the evidence by way of conducting a mini trial. In view of the same, we find no substance in this criminal application. Hence, the following order.

ORDER

Criminal Application No. 2683 of 2021 is hereby dismissed.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)

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