

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

955 CRIMINAL APPLICATION NO.2886 OF 2021

BALKRUSHNA @ ASHRU VALJANATH RODGE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. R.P. Patwardhan, Advocate h/f Mr. D.M. Shinde, Advocate for applicant

Mr. R.D. Sanap, APP for respondent No.1

Mr. S.S. Londhe, Advocate for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI AND
ABHAY S. WAGHWASE, JJ.

DATE : 29th NOVEMBER, 2022

ORDER :

1 The applicant has been arrayed as accused No.2 in Crime No.108/2021 dated 14.10.2021 registered with Narsi Police Station, Dist. Hingoli, for the offence punishable under Section 306, 323 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. R.P. Patwardhan holding for learned Advocate Mr. D.M. Shinde for applicant, learned APP Mr. R.D. Sanap for respondent No.1 and learned Advocate Mr. S.S. Londhe for respondent No.2.

3 Perusal of the First Information Report lodged by respondent No.2 would show that deceased Kanhopatra was her daughter and she was married to accused No.1 Ganesh Nidhana Pathade on 21.06.2020. Accused Ganesh is in Air Force and his posting is at Halwara, Dist. Ludhiana in State of Punjab. It appears that around 07.09.2021 accused No.1 told respondent No.2 that Kanhopatra always talks on phone to applicant and, therefore, he told that he needs divorce from her. It also appears then that in presence of the respondent No.2, accused No.1, deceased Kanhopatra admitted that she used to talk to present applicant. They were in contact through WhatsApp also. It is then stated that Kanhopatra had then disclosed that accused No.1 by posing himself as Kanhopatra used to talk to accused No.2 and used to send her obscene photographs to the phone of present applicant. It is then stated that respondent No.2, her husband and other relatives had gone to accused No.1 and asked that he may give divorce to Kanhopatra but they should return the marriage expenses. It appears that he refused to pay the marriage expenses as well as refused to take Kanhopatra for cohabitation. Respondent No.2 brought Kanhopatra at her house, however, there was no further communication. She was taken to matrimonial home on 22.09.2021, however, she was assaulted by the accused No.1 and other family members. It was then also told that the photographs are with accused No.1. There was divorce between Kanhopatra and her husband on 06.10.2021 through Court

and on 11.10.2021 it is said that accused No.1 had forwarded the obscene photographs of Kanhopatra and accused No.2 i.e. present applicant to the mobile of the husband of respondent No.2, her brother and other relatives. It appears that all the data has been forwarded and then it is stated that there are 98 recordings, 121 video calls, 27 sex videos and 1625 photos, out of which 633 are the semi nude photos. Thereafter on 13.10.2021 Kanhopatra committed suicide in the cattle shed of respondent No.2.

4 It has been tried to be contended on behalf of the applicant that the applicant has not abetted suicide of Kanhopatra in any manner. The First Information Report states that there was love affair between him and her, but he was not the person who had forwarded the data.

5 We are at a very premature stage, the investigation is pending. It is yet to be investigated, as to who had transmitted the data from whose mobile. A fact can be certainly said even at this prima facie stage on the basis of the contents of the First Information Report that those photographs, video recording was of present applicant and the deceased which could have been taken by the present applicant only and the possibility cannot be ruled out that he might be still having certain material with him.

6 The purpose of powers under Section 482 of the Code of

Criminal Procedure cannot be used to abort an investigation. There is also a right to the informant to have a fair investigation and, therefore, when we are at a very premature stage, case is not made out to exercise our powers under Section 482 of the Code of Criminal Procedure. Application stands rejected.

(Abhay S. Waghware, J.)

(Smt. Vibha Kankanwadi, J.)

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