

present case was married on 10th May 2018 and happens to be a mother of a minor child namely Kayraf.

ii. The appellant herein is the nephew of the husband of the first informant.

iii. The couple was residing in the agricultural land.

iv. The appellant is a student of 2nd year B.com. He is pursuing his education in Dattatray Govindrao Walse Patil Mahavidyala, at post-Awasari Budruk, Tal-Ambegaon, District-Pune.

v. He used to plough the agricultural land of the husband of the first informant with his tractor and therefore the first informant and the appellant had got acquainted with each other.

3. On 30th December 2021, the first informant i.e. respondent no.2 approached the Pune (Rural), Shirur Police Station and lodged a report alleging therein that she was acquainted with the appellant as he happened to be a close relative of her husband and he used to plough their agricultural land. They got friendly and on one occasion he had disclosed his love for her. Thereafter, the appellant and the first informant chatted with each other for long hours on Instagram. According to her, in July 2022 in the afternoon at about 1.30p.m. the appellant had called her to the agricultural land. He had offered her Thums-up drink. She knew that he had adulterated the said drink with

some spurious material after which she became unconscious. When she regained consciousness, she could not see the appellant anywhere close in the vicinity. She realised that she was denuded of her clothes by none other than the appellant. Since she was scared, she did not disclose the said incident to her husband or any other relative. According to her, the appellant thereafter blackmailed her and ravished her against her wish. Most of the times, he used to visit the courtyard of their house and ravished her in the Papaya Tree Garden under coercion by threatening her that he would expose her to social obloquy.

4. On 23rd December 2021, he again called her to the Papaya Tree Garden and had sexual intercourse with her against her wish and therefore, she was constrained to inform about the activities of the appellant to her husband. Thereafter, her relatives discussed about the said issues and finally decided to lodge a report at the police station.

5. On 4th January 2022, the supplementary statement of the first informant was recorded in which she disclosed for the first time that hers was an inter-caste marriage. She originally belonged to Hindu-Mahar caste. It is pertinent to note that the appellant herein was granted interim protection by the Sessions Court vide order dated 6th January 2022.

6. It appears that at the time of filing of the first application under section 438 of the Cr.P.C., the appellant had drawn the transcript of the messages exchanged between the appellant and the first informant on Instagram.

7. The appellant had approached the Court of Sessions under section 438 of the Cr.P.C. The application was rejected by order dated 25th January 2022. However the liberty of the appellant was protected in order to enable him to file appeal. The interim protection was extended by this Court vide order dated 10th February 2022. The the first informant was arraigned as respondent no.2.

8. On 25th February 2022, at the request of the learned APP, this Court was pleased to appoint Mr. Pavan Mali to espouse the cause of the first informant - complainant i.e. the respondent no.2.

9. In the course of hearing of the present appeal, we have called upon the learned APP to produce the papers of investigation. It is submitted, on instructions by the reporting officer, that since the applicant was granted protection by this Court, there was no further investigation.

10. At this juncture, the learned counsel for the appellant submitted that the appellant was summoned to the police station and his cellphone has been seized; that he has orally informed the police that the act was consensual and has produced certain transcripts of their Instagram chats to the police.

11. Today, the learned counsel for the appellant has placed before us the transcripts of the chat messages exchanged between the appellant and the first informant in the month of December.

12. It appears from the said chats that the act was consensual. The family members had learnt about the intimacy between the appellant and the first informant. Both of them were taken to task. They were thrashed by their respective family members. She had even informed the appellant that she would seek divorce from her husband. She had assured that she would not file a report.

13. The exchange of messages between the appellant and the first informant are more about personal intimate relations between the appellant and the first informant and need not be discussed in detail.

14. The investigating agency shall look into the said matter. The investigating agency shall retrieve the messages from the cellphone of the appellant as far as possible. The copies of the transcript of the chats alongwith the bonafide certificate issued in favour of the appellant by Dattatray Govindrao Walse Patil Mahavidyala are taken on record.

15. In the above mentioned facts, we *prima facie* feel that custodial interrogation of the appellant is unwarranted in the facts of the case. Hence, the following order:-

ORDER

- i) The appeal is allowed.
- ii) In the event of arrest, the appellant be enlarged on

bail on furnishing PR. Bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand Only), and one or more sureties in the like amount;

iii) The appellant shall not reside in village Chandoh Vasti, Tal-Shirur, District-Pune till the filing of the charge-sheet;

iv) The appellant shall inform the Investigating Officer about the address on which he would stay during this period;

v) The appellant shall give his cellphone number and any other number for communication to the Investigating Officer;

vi) The appellant shall report to the Shirur Police Station, as and when required;

16. With the above directions, the appeal stands disposed of accordingly.

17. Learned Counsel Mr. Pavan Mali has put in his best efforts to espouse the cause of the appellant. Hence, his professional fees are quantified as per rule to be paid to him by the High Court Legal Aid Services Committee, Mumbai.

(MILIND N. JADHAV, J)

(SMT. SADHANA S. JADHAV, J)