

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 685 OF 2018

Nathusing Tansing Rajput and Others. ...Applicants.
Versus
The State of Maharashtra & Another. ..Respondents.

Mr. Abhishek Kulkarni for the applicants.
Mr. J. P. Yagnik, APP for the Respondent – State.
Mr. Viraj Kandpile i/b Triyama Legal for Respondent no.2.

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : April 4, 2022.

P. C. :

1. Heard learned counsel Mr. Abhishek Kulkarni appearing on behalf of the applicants, learned APP Mr. J. P. Yagnik appearing on behalf of the Respondent–State and learned counsel Mr. Viraj Kandpile appearing on behalf of Respondent no.2.
2. By consent of learned counsel appearing on behalf of the respective parties, the application is taken up for hearing disposal.
3. The present applicants are accused nos.2 to 7 in first information report (FIR) bearing Crime No.139 of 2018 registered at Sangvi Police Station, Pune district on the allegation of commission of offences punishable under sections 376, 313, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860.

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4. The perusal of FIR shows that Respondent no.2 started residing at Pune and was working in some private office. She joined one mess and Accused No.1 (who is not before this in the present application), namely, Sahilesh was also attending the same mess. He introduced himself to Respondent no.2 as lecturer and developed friendship with Respondent no.2. It is further stated in the FIR that accused no.1 and Respondent no.2 left the respective jobs and accused no.1 offered a job opportunity to Respondent no.2 submitting that he was initiating a start-up with one of his friends. During the passage of time, Respondent no.2 came to know that accused no.1 was already married person and was making physical advances towards Respondent no.2. On questioning, accused no.1 told Respondent no.2 that he would seek divorce from his wife and would marry Respondent no.2. Then it is stated that despite opposition of Respondent no.2, accused no.1 established physical intimacy with Respondent no.2 and on various occasions physically exploited Respondent no.2.

5. Evidently, the allegation against the present applicants are general in nature and it is stated that accused no.1 used to abuse Respondent no.2 and used to commit acts of physical exploitation on her with the knowledge of and in connivance of these applicants. Except these general allegations, there is nothing in the report of any specific

actions or any peculiar incidents as against the present applicants.

6. Learned counsel for the applicants submitted that on lodgment of FIR, the investigating agency undertook the exercise of investigation and has filed charge-sheet only against accused no.1. A copy of the said charge-sheet filed in RCC No.938 of 2020 which is re-numbered as Sessions Case No. 365 of 2021 is tendered for the perusal of this Court across the bar. Perusal of the same shows that the investigating agency has recorded the statements of as many as 20 persons including the witnesses, medical officers and panchas. The investigating officer has submitted to the Court that the material evidence is available only against accused no. whereas the material collected by the investigating agency fails to support any accusation against other accused persons, namely, accused nos. 2 to 7.

7. Learned counsel for the petitioner submitted before this Court that in view of the material reflected in the charge-sheet especially the opinion formed by the investigating agency, the continuity of proceedings against the applicants is clearly unsustainable and if such a continuity is permitted, the same would amount to abuse of the process of law.

8. On perusal of the material placed before this Court to

which reference is made by us in the earlier part of this order, we are of the opinion that counsel for the applicants has made out a case for exercise of the inherent powers of this Court under section 482 of the Code of Criminal Procedure, 1973. Accordingly, the application is allowed and the first information report (FIR) bearing Crime No.139 of 2018 registered at Sangvi Police Station, Pune district against the applicants on the allegation of commission of offences punishable under sections 376, 313, 323, 504 and 506 read with 34 of the Indian Penal Code, 1860 is quashed and set aside. So also, the criminal proceeding arising from the said FIR, namely, Sessions Case No. 365 of 2021 pending on the file of Sessions Judge, Pune is quashed and set aside as against the applicants only.

[S. M. Modak, J.]

[Prasanna B. Varale, J.]