

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 177 OF 2020

Ritesh s/o Subhash Warhekar : **PETITIONER**
Aged about 29 years, Occupation : nil,
resident of Gram Sevak Colony,
Daryapur Road, Murtizapur, District :
Akola

VS.

1. The State of Maharashtra, through its
Police Station Officer, Police Station,
Borgaon Manju, tahsil and district : :
Akola
2. Ku. Sonali Devidas Bagde, **RESPONDENTS**
aged about 25 years,
occupation : Service,
resident of at and post Kanshivni tahsil
and district : Akola

Mr. B.M. Kharkate, Advocate for the petitioner
Ms. Mrunal Barabde, APP for the non-applicant No.1 / State
Mrs. Shilpa Giratkar, Advocate for the non-applicant No.2

CORAM: **VM. DESHPANDE AND**
 G.A. SANAP, JJ.

DATE : **4th JANUARY 2022**

ORAL JUDGMENT : (Per : VM.DESHPANDE, J.)

1. **Rule.** Rule is made returnable forthwith. Heard finally
by consent of the parties.

2. By filing this present application under Section 482 of
the Code of Criminal Procedure, the applicant is praying for

quashing of the charge-sheet No.147/2019 dated 20/12/2019 arising out of Crime No.244/2019, registered with Police Station Borgaon Manju, District Akola for the offences punishable under Sections 376(2)(n), 417 and 506 of the Indian Penal Code.

3. It is the submission of the learned counsel for the applicant that if the telephonic conversation is perused, then in that event, it is clear that the applicant cannot be held guilty for the offence punishable under Section 376 of the Indian Penal Code.

4. We are afraid to accept this submission in view of specific allegations made by the victim / non-applicant No.2 in the First Information Report, wherein she has very specifically stated that the present applicant has established sexual relations with her against her will. Whether the sex was consensual or not is a matter of trial and it cannot be decided in the application under Section 482 of the Code of Criminal Procedure. Hence, no case is made out.

5. Writ petition is dismissed. No costs.

Rule is discharged.

JUDGE

MP Deshpande

JUDGE

Digitally signed by:MILIND
P DESHPANDE
Signing Date:05.01.2022
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