

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

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CRIMINAL APPLICATION NO. 215 /2020

Akshay s/o Vinayak Palaspagar
Aged about 27 years, occu: service
R/o Lahan Umari Near Siddarth Vidyalaya
Akola.

..Applicant

versus

1. State of Maharashtra
Through PSO PS Nandgaon-Khandeshwar
Dist.Amravati.

2. Sau. Anita w/o Vilas Wankhade
Aged about 37 years, occu: Housewife
R/o Rahul Nagar, Amravati
Mob. No. m9765291654

.. Respondents
(Non Applicants)

Mr. Shashibhushan Wahane, Advocate for Applicants
Mr. S.D. Sirpurkar, APP for Respondent no. 1

...

CORAM: SUNIL B.SHUKRE AND
G.A. SANAP,JJ.

DATED : 10th June, 2022.

ORAL JUDGMENT: (PER SUNIL B. SHUKRE, J.)

Heard.

2. **Rule.** Rule, returnable forthwith. Heard finally by consent of respective Advocates.

3. Shri Wahane, learned counsel for the applicant submits that none of the offences which have been registered against the applicants at Police Station Nandgaon-Khandeshwar vide Crime No. 344/2019 is made out in the present case. According to him, mere catching hold of hand of a woman without any sexual intention does not constitute any offences of outraging modesty of woman or sexual harassment which are punishable under sections 354, 354-A and 354-D of the Indian Penal Code. He further submits that similarly no offence of stalking, punishable under Section 354-D of the IPC, against the applicant is made out as there is no allegation of the applicant repeatedly following the complainant or attempting to contact the complainant to foster personal interaction with her and, therefore, according to him, the offence registered u/ss. 354, 354-A and 354-D of IPC against the applicant deserves to be quashed and set aside.

4. The learned APP opposing the application submits that taking the allegations made against the applicant at their face value, all ingredients of the said offence are fulfilled and, therefore, it is not a fit case to interfere in the matter.

5. Upon considering the contents of the FIR and also the case diary, we find that there is substance in the argument of learned APP for the State that, insofar as the offence punishable u/s 354 and 354-A IPC are concerned, there are specific allegations against the applicant and, in our view, they *prima facie* constitute the offences punishable u/ss. 354 and 354A of IPC. However, as regards the offence punishable u/s. 354-D IPC, we find that it is an admitted position that except for the incident of 27.01.2019 wherein the applicant had followed the complainant, there is no other incident stated by the complainant. This is also accepted by the learned APP. In order to constitute an offence of stalking for offence punishable u/s 354-D of the IPC, repeated following and

contacts with the woman are required and same is absent here and, therefore, this offence is not *prima facie* made out. There is no material justifying proceeding of the investigating agency against the applicant for offence of stalking. To this extent, we are of the view that the instant Application can be allowed.

6. In the result, the Application is partly allowed. The offence punishable u/s 354-D of IPC registered vide Crime No. 344/2019 is hereby quashed and set aside.

7. Rule is made absolute in the above terms. No costs.

[G.A. SANAP,J.]

[SUNIL B. SHUKRE, J.]

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