

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

CRIMINAL APPLICATION (APL) NO.646 OF 2018

Nikhil s/o Ashokkumar Turkhede Vs. The State of Maharashtra through P.S.O., P.S. Pathrot,
Tq. Achalur, Dist. Amravati.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri D.S. Khushalani, Advocate for applicant
Ms M.H. Deshmukh, A.P.P. for non-applicant nos.1& 2/State.

CORAM : V.M. DESHPANDE & SMT. ANUJA PRABHUDESSAI, JJ.
DATE : 28/01/2022.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Heard Shri D.S. Khushalani, learned Counsel for the applicant, Ms Mayuri Deshmukh, learned Additional Public Prosecutor for the non-applicant nos. 1 and 2/State. Nobody put appearance for non-applicant no.3 though duly served.

3. By filing the present proceedings under Section 482 of the Code of Criminal Procedure, the applicant is praying for quashing of the First Information Report i.e. Crime No. 76/2018 registered with Police Station Pathrot, Tq. Achalur, District Amravati for an offence punishable under Sections 376, 328, 500 and 506 of the Indian Penal Code along with Sections 66(E) and 67 of the Information Technology Act read with Section 4 of the Protection of Children from Sexual Offence Act and the consequent charge-sheet. The main submission of the learned Counsel for the applicant is that this Court

(Coram: Sunil B. Shukre and Madhav J. Jamdar, JJ.) on 12/02/2020 has already quashed the First Information Report in respect of main accused and he therefore prayed that the present application be allowed.

4. The learned Additional Public Prosecutor also after verifying the record, submitted that the non-applicant no.3 and main accused Ankit Rotwal filed joint petition under Section 482 of the Code of Criminal Procedure before this Court which was registered in Criminal Application (APL) No.918 of 2019 and on 12/02/2020 the Co-ordinate Bench of this Court has quashed the First Information Report along with the charge-sheet against the accused no.1 Ankit Rotwal.

5. According to the prosecution case, all allegations are against Ankit Rotwal. From the reply filed on behalf of prosecuting agency in this application, the role attributed to the present applicant was that, the applicant who runs a Dhaba/Restaurant, he provided a room to accused Ankit Rotwal after taking an amount of Rs.500/- from him. Beside these allegations, there are no allegations against the applicant.

6. In view of the nature of the accusation made against the applicant and looking to the fact that this Court has already quashed the proceedings against the main accused Ankit Rotwal. In our view, continuance of this proceedings against the present applicant will nothing but abuse the process of law. In view of that, we pass following order:

- i) The application is allowed.
- ii) The First Information Report in Crime No.76/2018 registered with Police Station Pathrot, Tq. Achalur, District Amravati for an offence punishable under Sections 376, 328, 500 and 506 of the Indian Penal Code along with Sections 66(E) and 67 of the Information Technology Act read with Section 4 of the Protection of Children from Sexual Offence Act is quashed and set aside.

R.S. Sahare

JUDGE

JUDGE