

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

CRIMINAL APPLICATION (APL) NO.1373 OF 2021

- 1) Roshan s/o Vijay Khursankar,
aged about 30 years,
occupation : business,
- 2) Shri Vijay s/o Yeshwantrao
Khursankar, aged about 62 years,
occupation : Grocery Shop,
- 3) Sau. Shalini w/o Vijay Khursankar,
aged about 60 years,
occupation : household,
- 4) Bhushan s/o Vijay Khursankar,
aged about 32 years,
occupation : Private Service,

Applicant Nos.1 to 4 are r/o
Plot No.56, Old Subhedar
Layout, Nagpur.

- 5) Shri Sanjay s/o Tulsiram Badwaik,
aged about 42 years,
occupation : business,
- 6) Sweta w/o Sanjay Badwaik,
aged about 41 years,
occupation : Household,

Applicant nos.5 & 6 r/o and c/o
Snehal H.D. Kalambe, Plot No.26,
Ambika Nagar, Mata Kacheri Layout,
Nagpur.

- 7) Jayant s/o Devidas Tandulkar,
aged about 38 years,
occupation : private,

r/o Plot No.289, Hanuman Nagar,
Nagpur.

- 8) Shri Nirankush s/o Suresh Tadas,
aged about 36 years,
occupation : Private Job,
r/o Plot No.112, Adarsh Pragati
Colony, Dighori Layout, Umred Road,
Nagpur-34.

... Applicants

- Versus -

- 1) State of Maharashtra, through
Police Station Officer, Police Station,
Ajani, Nagpur.
- 2) XYZ-1, Crime No.446/2020,
Police Station, Ajani,
District Nagpur.
- 3) XYZ-2, Crime No.446/2020,
Police Station, Ajani,
District Nagpur.
- 4) XYZ-3, Crime No.446/2020,
Police Station, Ajani,
District Nagpur.
- 5) XYZ-4, Crime No.446/2020,
Police Station, Ajani,
District Nagpur.

... Non-applicants

Shri S.V. Tadas, Advocate for applicants.

Shri S.M. Ghodeswar, Additional Public Prosecutor for non-applicant
no.1.

CORAM : SUNIL B. SHUKRE AND
M.W. CHANDWANI, JJ.

DATED : DECEMBER 5, 2022

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

Rule. Rule is made returnable forthwith. Heard finally with the consent of the learned Counsel appearing for the parties.

2) On going through the first information report and other documents available on record, we find that insofar as offence punishable under Section 420 of Indian Penal Code is concerned, the essential ingredients thereof being missing in this case, the same is not prima facie made out against any of the applicants.

As regards the offence punishable under Section 376 of Indian Penal Code, the allegations are only against applicant no.1 and against rest of the applicants, there are general allegations regarding instigating applicant no.1 to enter into physical relations with the complainant. Considering these general allegations made against applicant nos.2 to 8, we are of the view that the offence punishable under Section 376 of Indian Penal Code is not prima facie made out against them, though this is not so against applicant no.1.

As regards the offence of dowry demand as a consideration for the purpose of marriage and the offence of criminal intimidation, we find that there are allegations made

against all the applicants and, therefore, to that extent, we would not interfere.

3) Accordingly, the criminal application is partly allowed. The offence of cheating punishable under Section 420 of Indian Penal Code registered against all the applicants is hereby quashed and set aside. The offence of rape punishable under Section 376 of Indian Penal Code registered against applicant nos.2 to 8 is also quashed and set aside.

The quashing and setting aside of the offences as above will also result in quashing of the charge-sheet filed only to the extent of quashing and setting aside of the offences as has been done by this Court.

4) Rule is made absolute in the above terms. No costs.

JUDGE

JUDGE

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