

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

Criminal Application (APL) No.1359 of 2021

Anup S/o Kishor Ganatra and another

Versus

State of Maharashtra and another

Office Notes, Memoranda of Coram,
appearances, Court's orders or directions Court's or Judge's orders
and Registrar's order

None for Applicants.

Shri S.D. Sirpurkar, Additional Public Prosecutor for Non-Applicant
No.1 – State.

None for Non-Applicant No.2, though served.

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

DATE : 22nd JUNE, 2022

1. None appears for the applicants.
2. Shri S.D. Sirpurkar, learned Additional Public Prosecutor for
the non-applicant No.1 – State.
3. None appears for the non-applicant No.2, though duly served.
4. Perused the F.I.R. It is seen from the F.I.R. that there are
specific allegations made against the applicant No.1- Anup S/o Kishor
Ganatra regarding blackmailing the complainant, the non-applicant
No.2 herein, about showing to her obscene photographs of the
complainant herself and then forcing her into having physical
engagements with him on different occasions. However, such
allegations have not been made in any manner against the applicant
No.2- Ramesh S/o Yashwantrao Ambilduke. The only allegations
against the non-applicant No.2 are that on 27-12-2017 when the
applicant No.1 had physical relations with the complainant, the

applicant No.2, on the directions of the applicant No.1, was made to sit outside the house of the complainant in order to enable the applicant to perpetrate his sinful act, but, in respect of this incident, the complainant herself stated to the applicant No.1 that he should forget whatever happened in that night. This only shows that the incident on 27-12-2017 may have been based upon the consensual act of the parties, but later on, there were some incidents which were indicative of the fact that the applicant No.1, having taken lewd photographs of the complainant, started to take advantage of the vulnerable position of the complainant and using his dominant position, started forcing the complainant into having illicit relations with her. In all the incidents, no allegation whatsoever has been made against the applicant No.2. However, there is one allegation made against the applicant No.2 in respect of the incident which took place in the morning of 12-6-2021. It is alleged that at the time when the applicant No.1, again using his dominant position, because of holding obscene photographs of the complainant, forced the complainant in having sexual relations with him, and at that time, the applicant No.2 was made to sit outside the house and the applicant No.2, in spite of being requested by the complainant to advise his friend, i.e. the applicant No.1 herein, the applicant No.2 did not advise the applicant No.1 and thus co-operated with the applicant No.1 in satisfying his lust.

5. The aforestated allegations made against the applicant No.2, even if they are accepted to be true, after taking them at their face value, would not constitute any offence against the applicant No.2, but that is not so in the case of the applicant No.1.

6. In view of above, this criminal application deserves to be allowed only in part.

7. The criminal application filed by the applicant No.2- Ramesh S/o Yashwantrao Ambilduke is allowed and the F.I.R. bearing Crime No.313 of 2021, registered against him at Police Station Nandanwan, Nagpur, is hereby quashed and set aside.

8. The criminal application filed by the applicant No.1- Anul S/o Kishor Ganatra is hereby dismissed.

(G.A. SANAP, J.)

(SUNIL B. SHUKRE, J.)

Lanjewar