

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 198 OF 2021

Kailas Kachru Sukalkar

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

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Mr. V.H. Dighe, Advocate for applicant
Mr. P.G. Borade, A.P.P. for respondent no.1 – State
Mr. S.R. Kedar, Advocate for respondent no.2

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 30th JANUARY, 2023

PER COURT :

1. At the outset, learned counsel for the applicant seeks leave to amend the prayer clause as to incorporate Sessions Case No. 8 of 2021.
2. Leave granted. Amendment to be carried out forthwith.
3. Heard finally at admission stage with consent of learned counsel for the respective parties.
4. This is an application under Section 482 of Code of Criminal Procedure to quash the F.I.R. bearing C.R. No. 230 of 2020 registered at Shanishingnapur Police Station, Dist. Ahmednagar and consequent charge-

sheet registered as Sessions Case No. 8 of 2021 pending on the file of District and Sessions Judge, Newasa for the offences punishable under Sections 376, 323, 504, 506 and 507 read with Section 34 of the Indian Penal Code.

5. The only question for our consideration is whether the F.I.R. and the other material collected in the course of investigation forms part of the charge-sheet, discloses the offences as alleged as against these applicants.

6. The Respondent No.2 had lodged the F.I.R. on 13th October, 2020 alleging that the co-accused – Gorakh Kale had forcible sexual intercourse with her from August to September 2020. He had also abused and assaulted her and further threatened to implicate her in false cases in the event she dared to approach the Court. She has stated that the applicant took her to a temple and made her promise that she would marry him and that she would marry her daughter to his son – Namdeo. She has stated that he had further sent her certain obscene messages and some photographs on her mobile. She has alleged that the present applicant had assisted the co-accused – Gorakh and Namdeo in committing the said crime.

7. The only allegation against the applicant is that he had assisted the co-accused. The Respondent No.2 has not specified in the F.I.R. the manner in which the applicant had assisted the co-accused. She had not attributed any specific role to this applicant. Apart from this vague statement, there is

absolutely no material on record to indicate that the applicant was also involved in committing the crime or that he shared common intention or that he had conspired with the co-accused and was involved in any way in supporting the co-accused in committing the crime.

8. Having considered the allegation made in the F.I.R. and having gone through the record, which forms part of the charge-sheet, in our considered view, uncontroverted allegations made in the F.I.R. and other material on record do not disclose commission of crime as alleged against the present applicant. In such circumstances, compelling the applicant to face prosecution for the offences as alleged, would be a sheer abuse of the process of law.

9. In the result, criminal application is allowed in terms of prayer clause (B-1). Consequently, the F.I.R. bearing C.R. No. 230 of 2020 registered at Shanishingnapur Police Station, Dist. Ahmednagar and consequent charge-sheet registered as Sessions Case No. 8 of 2021 pending on the file of District and Sessions Judge, Newasa for the offences punishable under Sections 376, 323, 504, 506 and 507 read with Section 34 of the Indian Penal Code stand quashed, qua the applicant.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

SSD