

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

**CRIMINAL APPLICATION NO.393 OF 2022**

1. Abdul Nazim Abdul Saleem Razvi,  
Age-26 years, Occu : Labour,  
R/o. Near Nana Nani Park,  
Old Mondha, Naigaon, Dist. Nanded.
2. Sabiya Nuri Abdul Salim Razvi  
Age-24 years, Occupation-Household,  
R/o. Near Nana Nani Park,  
Old Mondha, Naigaon, Dist. Nanded. ... **APPLICANTS**

**VERSUS**

1. The State of Maharashtra,  
through Police Station, Naigaon,  
Dist. Nanded
2. XYZ ... **RESPONDENTS**

...

Advocate for Applicant : Mr. Salunke Sudarshan J.

APP for Respondents: Mr. G.O. Wattamwar

Advocate for Respondent No.2 : Mr. M.K. Bhosale and A.G. Mohammad

...

**CORAM : MANGESH S. PATIL &  
ABHAY S. WAGHWASE, JJ.**

**DATE : 11.04.2023**

**PER COURT :**

It appears that Mr. V.P. Sawant learned advocate was appointed to represent the respondent No.2 since she was served but was not turning up. Subsequently, it appears that advocate Mr. M.K. Bhosale and Mr. A.G. Mohammad have caused appearance on her instructions. Mr. V.P. Sawant stands discharged.

2. By resorting to the provisions of Section 482 of the Code of Criminal Procedure the applicants who are the accused Nos.5 and 6 are seeking quashment of the crime registered at the instance of the respondent No.2 being Crime No.144/2020 registered with Police Station Naigaon, District Nanded for the offences punishable under Section 376 (2)(n), 313, 507, 504 read with Section 34 of the Indian Penal Code in which subsequent charge sheet is filled.

3. The FIR alleges about the accused No.1 having promised to marry the respondent No.2 and under that pretext maintained sexual relation since 2012. Many times she got pregnant and made to undergo abortion without her consent. Initially the allegations were levelled only against the accused Nos.1 to 4 who are the main accused and his brother, mother and father.

4. It is pertinent to note that the offence was registered for the aforementioned sections only against these accused Nos.1 to 4 and even a charge sheet was filed.

5. Simultaneously, the respondent No.2 preferred an application under Section 156(3) of the Code of Criminal Procedure and pursuant to the order of the Magistrate directing a preliminary inquiry to be made and a report to be submitted, the Investigating Officer recorded a supplementary statement of the respondent No.2 and has implicated the present applicants by submitting a supplementary charge sheet under Section 173(8) of the Code of Criminal Procedure.

6. There is no dispute about the fact that except the statement in the supplementary statement of the respondent No.2 recorded on 23.11.2020 rope in them under Section 313 read with Section 34 of the Indian Penal Code. There is no dispute about the fact that only the supplementary statements recorded of the respondent No.2 on 23.11.2020 forms the basis for implicating applicants.

7. In this statement the respondent No.2 has stated that while she was indulging in sex with the accused No.1 for last 7 to 8 years, even these two applicants had instigated the main accused. It is also alleged that the applicant No.2 used to administer her tablets for abortion and even the applicant No.1 was persuading her to take the pills because of which she had to be aborted on four occasions. Pertinently even she went to the extent of stating that since both these applicants were also involved but were not being implicated earlier that she had filed the application, presumably under Section 156(3) of the Code of Criminal Procedure, and that is why even they need to be implicated.

8. Conspicuously this supplementary statement does not mention expressly as to what had prevented her from attributing any role to the applicants when she was filing the FIR.

9. Be that as it may, accepting the allegations in the FIR and in the supplementary statement at their face value, respondent No.2 is complaining about the offence punishable under Section 376 (2)(n) as against the main accused with the statement that since 2012 she has been

maintaining such relation with him may be under the promise given by him to solemnize the marriage but the FIR has been lodged in the year 2020 after almost 8 years of maintaining such relation. We are not concerned with the other accused. The only role attributed to the present applicants is after a lapse of considerable time and after the aforementioned conduct in omitting to refer to them in the FIR is to the effect that they were abetting administration of pills to her.

10. In our considered view taking the note of the aforementioned facts and circumstances, it is a clear case of an after thought, every measure has been resorted to implicate the applicants somehow when some discord between the respondent No.2 and the applicant No.1 began. Without expressing anything in respect of the merits of the matter, *qua* the other accused, the case being a misuse of the process of law as against the present applicants.

11. The application is allowed. The Crime No.144/2020 registered with Police Station Naigaon, District Nanded to the extent of the applicants, the subsequent supplementary charge sheet filed against them and the criminal case arising there for the offence punishable under Section 376 (2) (n), 313, 507, 504 read with Section 34 of the Indian Penal Code is quashed and set aside

**(ABHAY S. WAGHWASE, J.)**

**(MANGESH S. PATIL, J.)**