

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

1030 CRIMINAL APPLICATION NO.1840 OF 2023

Dr. Rajendra Parbhatrao Boldhane.

... Applicant

Versus

1. The State of Maharashtra.

2. Geetanjali W/o Yogesh Mote.

... Respondents

...

Mr. Santosh C. Bhosle, Advocate for Applicant.

Mr. P. N. Kutti, APP for Respondent No.1 / State.

Mr. Prafullsing H. Patil, Advocate for Respondent No.2. (Appointed).

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CORAM : **R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 24th August, 2023.

Per Court:

. Heard.

2 This application has been filed for quashment of FIR and consequential charge-sheet No.73 of 2023, for the offences punishable under Sections 354 and 354A of the Indian Penal Code.

3 In short, the case of the informant is that, since she did not conceive during four years of marriage, she approached the applicant's clinic for sonography and IVF treatment. During such two visits, the

applicant medically examined her. During the first examination session, he asked his nurse to leave the room. That time, he misbehaved with her. He fondled her breast and expressed his love for her. The said first visit was dated 16th June, 2022. The next visit was on 25th June, 2022. During this visit as well, the applicant similarly misbehaved with her. She, therefore, left the sonography room without undergoing sonography. She did not relate the incident to her husband or parents-in-law. According to her, she was under mental stress due to applicant's behaviour and to save her own reputation, she did not go public with the alleged incidents immediately. Ultimately, she gathered courage and lodged the FIR on 6th December, 2022.

4 The learned counsel for applicant would submit that there is delay of not less than six months in lodging of the FIR. The applicant and his wife, both are medical practitioners. Both of them run the said clinic. They have employed certain females to assist them in the clinic. According to him, the father-in-law of the informant issued a cheque dated 8th July, 2022 of Rs.25,000/- towards his fees. The cheque has been dishonoured. The applicant, however, did not take steps towards recovery of the amount by resorting to Section 138 of the Negotiable Instruments Act. According to him, a false FIR has been lodged.

5 The learned appointed counsel for respondent/wife and the learned APP would submit that explanation for the delay has been given. It is for the Trial Court to appreciate the same. No woman would like to make such allegations at the cost of her reputation. The statements of others do not favour the prosecution since they are none other than the employees of the applicant. According to them, since the averments in the FIR *prima-facie* make out an alleged offence against the applicant herein, the application deserves to be rejected.

6 We have considered the submissions advanced. Perused the FIR. The applicant is a medical practitioner. Both the applicant and his wife run a clinic (Generation Next Test Tube Baby Centre). The informant since did not conceive during her four years of marriage, approached the applicant. She underwent sonography and other tests on 16th June, 2022. During her such medical examination, the applicant allegedly misbehaved with her. The respondent/informant was required to visit the clinic every alternate day for sonography and injection. On her each visit, she was accompanied either by her husband and parents-in-law or brother-in-law. She has alleged two incidents of outraging her modesty by the applicant. At the time of both the alleged incidents, her husband and parents-in-law were in her company, present outside the room, wherein she was examined by the

applicant and he allegedly misbehaved with her. We fail to understand as to why the informant did not share with her husband and parents-in-law what had happened with her at the hands of the applicant. The reason of delay does not appeal to our conscious although that is to be appreciated by the Trial Court. There is one more aspect of the matter. The applicant has come with a specific case that the father-in-law of the informant had issued a cheque in the sum of Rs.25,000/- towards his fees. The cheque is dated 8th July, 2022. The cheque appears to have been issued just few days after the last alleged incident. It has specifically been averred by the applicant on oath that the cheque was dishonoured. The applicant, time and again made a demand of money due from the husband of the informant. It is true that the applicant has not taken recourse to Section 138 of the Negotiable Instruments Act for recovery of the amount. The fact, however, remains that the cheque issued by the father-in-law of the informant, has been dishonoured. We have reason to believe the case of the applicant that he has not been paid his fees. All these facts coupled with a long delay of six months, in spite of a fact that the informant could have shared her alleged ordeal to her husband and parents-in-law, who were very much present outside the room wherein she was allegedly molested, lead us to observe that asking the applicant to face trial in all these circumstances, would be an abuse of process of Court. Hence, the following order is passed:-

ORDER

- I. The application is allowed in terms of prayer clauses (B) and (B-1) on condition that the applicant deposits a sum of Rs.20,000/- (Rupees Twenty Thousand only) with this Court within a period of one week from today towards fees of the appointed counsel.
- II. Once the amount of Rs.20,000/- is deposited with this Court, the same be paid to the learned appointed counsel for respondent No.2, immediately.
- III. List this matter on 31st August, 2023 for compliance of order.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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