

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

CRIMINAL APPLICATION NO. 2027 OF 2021

Shaikh Sadeque s/o Shaikh Chand,
Age : 31 years, Occu. Labour,
R/o. Hadgaon (Bk.), Tq. Pathri,
Dist. Parbhani.

... Applicant

Versus

1] The State of Maharashtra

2] Shantabai w/o. Bhimrao Kakde,
Age : 45 years, Occu. Household and Labour,
R/o. Hadgaon (Bk), Tq. Pathri,
Dist. Parbhani.

...Respondents

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Mr. G. R. Syed – Advocate for the applicant
Mr. S. D. Ghayal – APP for respondent/State
Mr. Sarang P. Joshi – Advocate for respondent no. 2

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**CORAM : MANGESH S. PATIL
AND
M. M. SATHAYE, JJ.**

DATED : 14.03.2023

PER COURT : -

. By invoking the powers of this court under Section 482 of the Code of Criminal Procedure, the petitioner is seeking quashment of the First Information Report No. 0242 of 2021 registered with Pathri Police Station, Dist. Parbhani, for the offences punishable under Sections 376(2)(n), 323, 506, 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. We have heard both the sides.

3. The First Information Report is lodged by respondent no. 2, who is more than 40 years old and a mother of two children, alleging that her husband has gone missing about few years back and thereafter the applicant lured her in maintaining physical relations. She alleges about he having promised to perform the marriage and under that pretext having repeatedly raped her. She also alleges about he having taken her to different places, cities and towns. She then alleges about he having even robbed her of ornaments. She further alleges that on 02.06.2021, the applicant, in presence of her mother and son, abused and insulted her in the name of her caste.

4. Accepting the allegations at their face value, all the aforementioned facts would *ex facie* demonstrate that she has been maintaining a consensual relations and when the things have gone sour, she has lodged this FIR after maintaining such relations for over three years.

5. Having considered the aforesaid facts and circumstances of the case, if the present proceeding is allowed to continue, it would be sheer abuse of process of court as contemplated by the Supreme Court in the case of **State of Haryana v. Bhajan Lal** reported in 1992 Supp. (1)

SCC 335, and as such this is a fit case where, invoking the power under Section 482 of the Code of Criminal Procedure, the present proceeding is required to be quashed. Hence, the application is allowed.

6. The First Information Report No. 0242 of 2021 registered against the applicant – Shaikh Sadeque s/o Shaikh Chand with Pathri Police Station, Dist.Parbhani, for the offences punishable under Sections 376(2)(n), 323, 506, 3(1)(r), 3(1)(s), 3(2)(v) and 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, is quashed and set aside.

7. Application is disposed of.

[M. M. SATHAYE]
JUDGE

[MANGESH S. PATIL]
JUDGE