

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

CRIMINAL APPLICATION NO.2283 OF 2020

Sandeep S/o. Baburao Hurdukhe.

... Applicant

Versus

The State of Maharashtra and another.

... Respondents

...

Mr. Suraj R. Bagal, h/f Mr. Bharat N. Gadegaonkar, Advocate for Applicant.

Mr. N. T. Bhagat, APP for Respondent No.1 / State.

Mr. Madhukar M. Parghane, Advocate for Respondent No.2.

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

DATE : 10th August, 2023.

ORDER: (Per Sanjay A. Deshmukh, J.)

1 Heard the learned advocates for the respective parties.

2 This is an application, under Section 482 of the Code of Criminal Procedure, 1973, for quashment of FIR No.107 of 2020 dated 16th September, 2020, registered with Mantha Police Station, District Nanded, and consequential charge-sheet in Special Case No.151 of 2020, pending in the Court of learned Sessions Judge-3, Nanded, for the offences punishable under Sections 354, 354A and 354B read with 34 of the Indian Penal Code, 1860 and Sections 8, 11(1) and 12 of the Protection of Children from Sexual Offences Act, 2012.

3 The informant averred in the FIR that she is 16 years old, residing with her parents and studying in XIth standard. On 14th September, 2020 at about 02:00 pm, she was working with her parents in the field. That time, Janardhan Wagatkar made phone call to her mother and told her that he requires photograph of the informant for drawing domicile certificate. Therefore, her mother sent her to *Setu Kendra* of Janardhan. When she came to the public road from her farm, Janardhan came there on motorcycle alongwith the applicant. That time, Janardhan came to her and stopped her and he forcefully picked up her and thrown in the *Nala*. She made hue and cry. That time, Janardhan pressed her mouth and tried to remove her clothes. She shoved Janardhan and ran away to her farm towards her parents. She was crying. That time, Godvaribai Gautam Narwade and Sushilabai Narwade came to her. She told that incident to them. She lodged the the FIR of the incident on 16th September, 2020.

4 The learned counsel for the applicant submitted that the applicant is no way concern with the crime and he is falsely implicated in the crime. The name of the applicant is mentioned in the FIR afterthought. No role is attributed to the applicant. It is lastly prayed to allow the application by quashing the FIR and the consequential charge-sheet.

5 The learned APP for the State and the learned counsel for the informant strongly objected the application. They contended that the name of the applicant is mentioned in the FIR. He is therefore, liable to face the criminal prosecution. They lastly prayed to reject the application.

6 Perused the charge-sheet. The name of the applicant is mentioned in the FIR, however, it is not mentioned what type of role he played in outraging her modesty. Considering entire factual matrix, in the absence of material against the applicant, he cannot be compelled to face the trial. It would be an abuse of process of the Court. In the facts and circumstances of the case, it would be legal and proper to quash the FIR and the consequential charge-sheet against the applicant. The application deserves to be allowed. The application is, therefore, allowed in terms of prayer clauses (B) and (B1). No costs.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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