

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

CRIMINAL WRIT PETITION NO. 1597 OF 2022

Rajendra Nilkanth Amodkar

..PETITIONER

VERSUS

State of Maharashtra and Others

..RESPONDENTS

....

Mr. R.A. Tambe, Advocate for petitioner

Mr. A.R. Kale, A.P.P. for respondent nos.1 and 2

Mr. M.K. Bhosale, Advocate for respondent no.3

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

DATE : 19th JANUARY, 2023

PER COURT :

1. Heard finally with consent of learned counsel for the respective parties.

2. By this petition under Article 226 of the Constitution of India, the petitioner herein has sought to quash the criminal proceeding bearing R.C.C. No. 760 of 2022 pending on the file of Judicial Magistrate First Class, Jalgaon pursuant to the F.I.R. bearing C.R. No. I-410 of 2022 registered with M.I.D.C. Police Station, Dist. Jalgaon for the offences punishable under Sections 354, 354-A, 506 and 509 read with Section 34 of the Indian Penal Code.

3. The aforesaid crime was registered against the applicant and the co-accused - Uddhav Kadave pursuant to the F.I.R. lodged by the Respondent No.2, who was an outsourced employee working in the Maharashtra State Electricity Distribution Company Ltd., Jalgaon. The applicant herein was also working in the same office as Junior Clerk. The complainant has alleged that since the year 2017 till October 2021 the co-accused - Kadave had requested her for sexual favours and had subjected her to sexual harassment under the threat that he could terminate her services. She claims that she was reinstated though her services were terminated thrice. In the month of October 2021 the co-accused called her in his chamber and requested for sexual favour. He terminated her services since she refused to accede to his request.

4. The Respondent No.3 has stated that she was called to the office on 12th May, 2022 and told by the co-accused – Mr. Kadave to meet the applicant and fill in the blank entries in the inward and outward register. He also told her to forget the past incidents and that he would try to make an attempt to re-employ her. She stated that she approached the applicant herein and asked for inward-outward register and completed the work as instructed. She claims that the co-accused told her that the applicant would drop her home. She declined the offer and left the office. When she was near the stairs of training hall of the office, the applicant came from behind

and made physical contact with her by putting his hand around her neck and asking her to give him a kiss. She has stated that she had lodged a complaint before the higher authorities as per the *Vishakha* guidelines and since no action had been taken against the applicant and the co-accused, she lodged the F.I.R. against both of them.

5. It is well settled that powers under Section 482 Cr.P.C. can be exercised to quash the proceeding when uncontroverted allegations in the F.I.R. as well as the material collected in the course of investigation do not disclose any cognizable offence. In the instant case, the alleged incident had occurred on 12th May, 2022. A perusal of the records reveals that the Respondent No.3 had lodged a complaint before the higher authorities on 19th May, 2022, wherein she had made allegations of sexual favour only as against the co-accused. She had not made any allegations against the present applicant in the complaint filed at the first point of time. The F.I.R. reveals that the alleged incident had taken place at a public place near the stairs of the office premises. None of the witnesses, whose statements have been recorded, have supported the case of the complainant.

6. Considering the above facts and circumstances, in our considered view, the uncontroverted allegations made in the F.I.R. as well as the evidence collected in support of the same do not disclose commission of

offence and make out the case against the applicant. The present case is therefore, squarely covered by Illustration (3) of judgment in case of ***State of Haryana and Others Vs. Ch. Bhajan Lal and Others, (1992) 3 SCR 735 (SC)***. In view of the same, subjecting the applicant to criminal prosecution would be a sheer abuse of the process of Court.

7. Under the circumstances, criminal proceedings being R.C.C. No. 760 of 2022 pending on the file of Judicial Magistrate First Class, Jalgaon initiated pursuant to the F.I.R. bearing C.R. No. I-410 of 2022 registered with M.I.D.C. Police Station, Dist. Jalgaon, stand quashed.

8. Fees of the appointed advocate, Mr. M.K. Bhosale, is quantified at Rs.6,000/- (Rupees Six Thousand).

(R.M. JOSHI, J.)

SSD

(SMT. ANUJA PRABHUDESSAI, J.)