

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

991 CRIMINAL APPLICATION NO.4079 OF 2019

Ajay s/o Raosaheb Aher

...Applicant

versus

1. The State of Maharashtra

2. Meera w/o Babasaheb Jadhav

...Respondents

...
Advocate for Applicant : Mr. Govind Rangrao Ingole h/f Mr. Govind
M. Sharma

APP for Respondent No.1: Mr. P.N. Kutti

Advocate for Respondent No.2 : Mr. D.S. Manorkar

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**CORAM : R. G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.
DATED : 11th OCTOBER, 2023.**

PER COURT :-

Heard.

2. This application has been filed for quashment of F.I.R. No. 186 of 2019 registered with Jawahar Nagar Police Station, Aurangabad for the offences punishable under Sections 376, 506 of I.P.C. and consequential charge sheet No. 39 of 2020 for the offences punishable under Sections 376, 420 and 506 of I.P.C.

3. What can be gathered from the F.I.R. and the relevant police papers is that the informant was previously married and she has three major children. Her husband passed away. Thereafter,

she came into contact with the present applicant. The applicant has developed emotional relationship. Both of them met with each other secretly and they stayed together for about three years. The applicant is alleged to have extended promise of marriage and thereunder exploited her sexually. It is only on 9.5.2019, the applicant allegedly left the company of informant for no return and therefore, she lodged the F.I.R. On investigation of crime, charge sheet has been filed.

3. Learned advocate for the applicant would submit that the informant was mother of three major children. She was widow. She developed acquaintance with the applicant and both of them stayed together as husband and wife and during which period sexual intercourse took place many times. According to him, it's not a case of false promise of marriage or a case of breach of promise of marriage. According to him, it was consensual relationship and no ingredients of Section 375 of I.P.C. are made out. He therefore, urge for grant of application.

4. Learned A.P.P. and learned advocate for respondent No.2-informant would, on the other hand, submit that the informant was helpless widow. Her consent for sexual intercourse was obtained with false promise of marriage. She was sexually exploited for three years and she was at his mercy. According to them, no mini trial can be conducted here about the averments in the F.I.R. and ingredients

of Section 375 of I.P.C.. Both of them therefore, urge for rejection of the application.

5. Considering the submissions advanced. Perused the F.I.R. and the relevant police papers. It is reiterated that the informant was 49 years old widow. She has three major children. She got acquainted with the applicant. The said acquaintance developed in emotional relationship. Both of them started residing together for about three years. Such residing together is nothing short of either live in relationship or marriage like relationship. It appears that something went wrong between two and therefore, the informant lodged the F.I.R. for having been duped to give consent for sexual intercourse. Close reading of the F.I.R., undoubtedly, indicate that it was consensual relationship and after something went wrong between two, the F.I.R. came to be filed. They resided together for not less than three years, might be in live in relationship or marriage like relationship. In the aforesaid factual backdrops directing the applicant to face the trial would be an abuse of process of the Court. Thus, the criminal application deserves to be allowed.

6. The criminal application is allowed in terms of prayer clause "B".

(SANJAY A. DESHMUKH, J.)

(R. G. AVACHAT, J.)