



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 46 OF 2024

Vishal S/o Sukhdevrao Ghodeswar
Aged : 30 years, Occ.: Private Job,
R/o. Murjitapur Khedkar,
Murtizapur Bramhi, Akola – 444106

} ... Applicant

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Ranapratap Nagar Police Station,
Nagpur
2. XYZ
FIR No.579/2023
Police Station Rana Pratap Nagar,
Nagpur
Tah. & Dist. Nagpur

} ... Non-applicants

Mr. R.D. Hazare, Advocate for applicant.
Mr. M.K. Pathan, APP for non-applicant No.1.
Mr. I.H. Baksh, Advocate for non-applicant No.2.

CORAM : VINAY JOSHI, AND
SMT. VRUSHALI V. JOSHI, JJ.
DATE : 24.01.2024

ORAL JUDGMENT: (PER: Vinay Joshi,J)

Heard finally by consent of both the learned counsel
for the parties.

(2) **Admit.**

(3) This is an application seeking to quash FIR in Crime No.579/2023 registered with Ranapratap Nagar Police Station, Nagpur for the offence punishable under Sections 376 of the Indian Penal Code on merits as well as on account of settlement.

(4) The informant is a grownup lady aged about 29 years who has lodged a report which made police to register a crime and investigate. It is informant's case that through the matrimonial website, she got acquainted with the applicant. Both frequented with each other and went to a lodging house at Nagpur where they stayed for two days. It is informant's case that the applicant assured her to marry and under said pretext established sexual relations. She stated that later on the applicant did not respond, therefore, the report.

(5) Both have appeared before us and stated that under miscommunication, crime has been registered but, they have decided to marry with each other. Both have filed affidavit to that effect. Moreover, the informant lady has filed a reply stating about settlement and her no objection.

(6) Apart from the settlement, we have examined the available material to see the existence of a *prima facie* case. Undoubtedly, the informant is well educated grown-up lady. Both have stayed in a lodging house for two days, for which, there is no dispute. The informant never ventilated the grievance about the alleged act of sexual intercourse on promise to marry. The contents of the police report itself discloses that after the occurrence the applicant along with his father went to the informant's house expressing his desire to marry. It appears that, however, thereafter, the applicant's mobile was unreachable that is why the report has been lodged. The contents of the FIR discloses that they were in a relationship. It is not a case where we could say that under a false pretext, consent was obtained because, after relations, the applicant with his father went for settlement of marriage. It is evident that during the meantime his cell phone was unreachable that is why the report has been lodged under frustration. Moreover, during statement under Section 164 of the Code of Criminal Procedure, the informant stated that out of misunderstanding, she had lodged a report.

(7) It is evident from the above material that though they had relationship, however, it was not under the false pretext of

marriage. There is no material to infer the act of applicant amounting to obtaining consent by deceitful means. In these circumstances, continuation of prosecution amounts to abuse of the process of the Court. Even otherwise since both are ready to marry with each other the continuation of the trial may become an obstacle in their relationship.

(8) In view of above, the application is allowed. We hereby quash and set aside the FIR in Crime No. 579/2023 registered with Ranapratap Nagar Police Station, Nagpur, for the offence punishable under Sections 376 of the Indian Penal Code.

(9) The criminal application stands disposed of accordingly.

[VRUSHALI V. JOSHI, J.]

[VINAY JOSHI, J.]

Prity