



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

CRIMINAL APPLICATION (APL) NO. 803 OF 2023

Nilesh S/o Pandhari Kalambe
Aged about 35 years, Occ. Pvt. Work
R/o. House No.9377, Shri Sai Krupa
Caterers Near Zhilla Parishad School
Indira Mata Nagar, Hingna Road,
Nagpur



... Applicant

Versus

1. The State of Maharashtra,
Through PSO MIDC,
Nagpur.

2. XYZ
Crime No.0438/23,
Police Station MIDC,
Nagpur



... Non-applicants

Mr. N.Z. Rizwy, Advocate for applicant.

Mr. S.S. Doifode, Addl. PP for non-applicant No.1.

Mr. A.J. Mirza, Advocate for non-applicant No.2.

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

DATE : 11.03.2024

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 charge-sheet (Sessions Case No.380/2023) arising out of Crime No.438/2023 registered with Police Station MIDC, Nagpur, for the offence punishable under Sections 376(2)(n), 323, 504 and 506 of the Indian Penal Code.

(4) Quashing is sought on merits as well as on account of settlement. Learned counsel appearing for the applicant would submit that the material collected during the course of investigation does not disclose an offence of repetitive sexual intercourse. He would that it is a purely case of consensual relationship. Moreover, learned counsel for the applicant pointed out that out of misunderstanding between the couple, FIR has been lodged for which she has filed an affidavit stating about the settlement. Learned APP resisted this application by submitting that the informant girl had specifically stated about forcible sexual intercourse.

(5) The informant girl aged about 20 years was educating in Engineering College. It is her case that she got acquainted with applicant somewhere in between June 2022 to

September 2022. They have exchanged their mobile numbers and were frequenting with each other. The relationship became thick as the applicant was on and off visiting at her residence. The informant stated that somewhere in the month of September 2022, the applicant as usual came to her house but this time by use of force had established sexual relations without her consent. She stated that the things were repeated on several occasions despite her consent. The informant stated that the applicant was a married fellow, however, he has maintained the relationship without her consent and therefore, the report.

(6) We have carefully examined the entire material on record. The informant is a well-educated, grownup girl studying in Engineering college. It is her contention that a love relationship was developed in which the applicant was frequently visiting at her room. The informant herself has stated that though she learnt that the applicant was married still the relationship was continued for few more months. The informant never stated that on the first occasion, the applicant had established relations on the pretext of marriage. Rather it is her case that by use of force, the applicant has established

relations. Though the first alleged occurrence was in September 2022 still for the next eight months, she did not put any grievance. It reveals that besides the first alleged sexual relations that too without any promise still the relationship continued for the next six months. The said entire episode suggests that the relationship was out of a love relationship.

(7) Besides that the informant lady prior to charge-sheet and even after charge-sheet appeared before us and filed affidavit that out of a misunderstanding, she has lodged the report. Today, also the informant lady is present in Court, who has been identified by her Advocate and she stated about her no objection to quash the proceeding.

(8) We have taken a survey of the entire material and find that the relationship was out of love affair. Even there are no allegations that on the false pretext, her consent was obtained. Taking an overall view of the matter, it reveals that it is a case of consensual relations and therefore, the material collected does not constitute the offences charged. In the circumstances, continuation of prosecution amounts to abuse of process of the Court.

(9) In view of above, the application is allowed. We hereby quash and set aside the charge-sheet (Sessions Case No.380/2023) arising out of Crime No.438/2023 registered with Police Station MIDC, Nagpur, for the offence punishable under Sections 376(2)(n), 323, 504 and 506 of the Indian Penal Code.

[VRUSHALI V. JOSHI, J.]

[VINAY JOSHI, J.]

Prity