



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

CRIMINAL APPLICATION (BA) NO. 738 OF 2024

Kisna Shriram Nandurkar Vs The State Of Maharashtra And Another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. V.S. Bhoyar, counsel for applicant.

Mr. S.S. Hulke, APP for non-applicant/State.

Mr. A.G. Hunge, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 26/09/2024.

1. The applicant came to be arrested on 28/02/2024, in connection with Crime No. 86/2024 registered with Police Station Bhiwapur, Tah. Kuhi, District Nagpur for the offence punishable under Sections 376, 341, 324 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of a report lodged by the victim alleging that she is residing along with her husband and in-laws. As her husband is bedridden, she is cultivating the land and looking after the agricultural operations. On 27/02/2024, at about 11.00 a.m., she along with her father-in-law had been to the agricultural field, and at about 05.00 p.m., when she was returning, the present applicant restrained her and demanded sexual favors from her. When she denied, he gave a blow of stick on her head as well as on her left thigh. Due to which, she fell on the ground, and thereafter, the present applicant subjected her for forceful sexual assault. After hearing the noise, her

father-in-law came there, and at the relevant time, there were no inner garments on her person, and her Sarri was pulled. She disclosed the incident to her father-in-law immediately. On the basis of the said report, police have registered the crime against the present applicant. During the investigation, the victim was referred for medical examination, and injuries were found on her person in the nature of a contusion on the left thigh as well as an injury on head. Her genital examination was also carried out. During the investigation, the statement of the victim was recorded.

3. Heard learned counsel for the applicant, who submitted that due to the previous enmity, the applicant is implicated falsely. In fact, no alleged incident has taken place. The medical report shows no injuries to the person of the victim. Considering no prima-facie case was made against the present applicant, the bail application deserves to be allowed.

4. The learned APP and learned counsel for the victim strongly opposed the application and submitted that the alleged incident has been witnessed by her father-in-law, and the statement of the victim is substantiated by the medical certificate, on which the injuries are found on the person of the victim. The statement of the victim substantiated by the medical certificate shows injuries on her person, and the statement of the father-in-law sufficiently shows the involvement of the present applicant in the alleged offence.

5. Heard learned counsel for the applicant, learned APP and learned counsel for the victim, perused the investigation papers, from which it reveals that as per the allegation of the victim, she was restrained by the applicant when she was returning home from the agricultural field, and by giving blows on her left thigh and on her head, she was subjected for sexual assault. The statement of the father-in-law was also recorded during the investigation, who substantiated the said contention. This fact is further substantiated by the medical certificate, which shows two injuries are found on the person of the victim. As far as medical examination is concerned, admittedly no external injuries were found, but the medical report shows that she was subjected for sexual assault.

6. Thus, considering the entire material, the *prima-facie* case is made out. The manner in which the present applicant subjected the victim for forceful sexual assault is revealed from the investigation papers. In view of the above facts and circumstances, this is not a fit case to use discretion in this case. Accordingly, I proceed to pass the following order;

- a] The criminal application is **rejected** and disposed of.
- b] The fees of the appointed counsel be quantified as per Rule.

[URMILA JOSHI-PHALKE, J.]