



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

CRIMINAL APPLICATION NO.1617 OF 2022

Manish Sudhakar Rao Maanmode, Aged
about 32 years, Occ-Business, R/o
Ganesh Colony, Amravati, Tq. & Dist.
Amravati.

... APPLICANT

VERSUS

1. State of Maharashtra, through
Police Station Officer, Police
Station, Rajapeth, Tq and Dist.
Amravati.
2. XYZ (victim in Crime No.831/2022)
Registered at Police Station Officer,
Rajapeth, Amravati.

... NON-APPLICANTS.

Shri Yash Bhelande, Advocate for the applicant.
Shri Doifode, Addl.PP for the State.
Mrs. Archana Murrey, Advocate for the non-applicant no.2
(appointed).

CORAM : VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 04.04.2024.

JUDGMENT : (Per : Vinay Joshi, J.)

Heard. **ADMIT.**

2. The matter is taken up for final disposal by consent of learned Counsel appearing for the parties.

3. This is an application seeking to quash the Charge-sheet arising out of Crime bearing First Information Report No.831 of 2022 registered with the Rajapeth Police Station, Amravati City for the offence punishable under Sections 376(2)(n), 417, 323, 504, 506 of the Indian Penal Code.

4. The informant lady aged 35 years has lodged the report on 27.09.2022 alleging that the applicant under false pretext of marriage had sexually exploited her. It is the informant's case that in the year 2005, she got married. The applicant was residing near her matrimonial house and thus, both of them got acquainted with each other. The applicant expressed his liking about her to which she consented. Later, in the month of June 2009, the applicant called the informant at his house and by expressing his desire to marry had established sexual relations. The informant stated that since her husband came to know about the extra-marital relations, he has left the informant. Thereafter, the informant started to reside with the applicant in rented room for several years. In the year 2012, the informant has delivered a baby girl, and relationship continued till the

year 2020. Finally, two months prior to the lodgement of FIR, the informant came to know that the applicant got married with someone else, hence the report.

5. Reading of FIR coupled with the documents collected during the course of investigation itself makes it abundant clear that it is a case of consensual relationship. We have reason to say so because way-back in the year 2005 itself, the informant got acquainted with the applicant and both expressed their liking to each other. Then from 2009 onwards though the informant was a married lady, she continued her relationship with the applicant. The informant's contention that the applicant promised to marry would not lie since her marriage was in existence. It is apparent that from the year 2009 to 2020 i.e. for the long period of 11 years, the couple lived together. Even allegedly had a baby from the wedlock. In the circumstances, it is difficult to accept the informant's case that for long period of 10 to 11 years, under false pretext of marriage, the applicant had sexually exploited her.

6. The law in this regard is well settled. Mere breach of promise would not amount to obtaining consent under the misconception. The facts of the case are more worse from the first day it was a purely extra-marital relationship, between two adults, which

continued openly for 10 years and even had a baby. In the circumstances, even if accepting the prosecution case as it stands, it does not comply the essentials to constitute the offence of rape.

7. In view of the above, the application is allowed. We hereby quash and set aside the Charge-sheet arising out of Crime bearing First Information Report No.831 of 2022 registered with the Rajapeth Police Station, Amravati City for the offence punishable under Sections 376(2)(n), 417, 323, 504, 506 of the Indian Penal Code.

8. The application stands disposed of accordingly.

9. Fees of the appointed Counsel be paid as per the Rules.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)

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