



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

CRIMINAL APPLICATION (APL) NO.1409 OF 2024

Vishal Dhyaneshwar Folane, Aged about
28 years, Occu – Private, R/o Chandak
Layout, Sundarkhed, Buldhana.

...Applicant

// VERSUS //

1. State of Maharashtra,
Through PSO PS Buldhaan City, Dist.
Buldhana.

2. XYX Victim,
Crime No.17/2020, PS Buldhaan City,
Dist. Buldhana.

... Respondents

Shri Mir Nagman Ali, Advocate for Appellant.
Shri U.R. Phasate, A.P.P. for Non-applicant No.1/State.
Shri S.S. Karanjkar, Advocate for Non-applicant No.2.

**CORAM : VINAY JOSHI AND
SANJAY A. DESHMUKH, J.J.**

DATED : 08/10/2024

ORAL JUDGMENT (PER SANJAY A. DESHMUKH, J.)

1. This is an application for quashing of chargesheet and the First Information Report and Sessions Case. The FIR No.17 of 2020 was registered against the applicant for the offences punishable under Sections 376(2)(n), 452, 323 and 506 of the Indian Penal Code, 1860

(hereinafter referred to as “IPC”) with Police Station Buldhana city, Dist. Buldhana. The Chargesheet bearing No.70/2020 was filed and Sessions Trial No.59 of 2020 is pending before the learned Additional Sessions Judge, Buldhana.

2. It is averred in the report that, accused frequently harassed the prosecutrix who was 32 years old. He frequently committed sexual intercourse against her wish by threatening to kill her. He snapped her naked photographs and made some obscene video clips. He also recorded video call phone conversation between the applicant and the prosecutrix. Lastly, on 08.01.2020, the accused made a phone call to the prosecutrix. The accused said that, I will show and give you the video clips and called her at the Malvihir area near her plot. That time he tried to commit rape on her. He also torned down her blouse and pulled out her saree. She succeeded in running away from his clutches from that spot. Her husband came there. The applicant also assaulted her husband. The report was lodged immediately.

3. The learned advocate for the applicant pointed out that this is a case of consensual sexual relationship between the applicant and the prosecutrix, no rape is committed. The applicant is released on bail. He has no criminal antecedent. The compromise also took place between

them. Considering nature of allegations, proceeding against the accused for the said criminal trial is certainly abuse of process of law. Therefore, it is prayed to quash the report, chargesheet and sessions case. He pointed out reply and affidavit of prosecutrix.

4. The learned A.P.P. and the learned Advocate for prosecutrix pointed out reply of prosecutrix along with her affidavit. She had compromised the matter. She is present in the Court. She is not pressurized by the accused for compromising said case.

5. Perused the report and chargesheet.

6. The report itself shows that, it is consensual sexual relationship between the applicant and prosecutrix. The application is supported by reply affidavit filed by the prosecutrix. The case is made out for quashing of the report, Chargesheet and sessions case. The application therefore deserves to be allowed. Hence the following order :

- i) The application is **allowed**.
- ii) The FIR No.17 of 2020 for the offences punishable under Sections 376(2)(n), 452, 323 and 506 of the Indian Penal Code, 1860 registered with Police Station Buldhana city,

Dist. Buldhana along with Chargesheet and Sessions Trial
Case No.59 of 2020, are quashed and set aside.

iii) The application is **disposed**.

(SANJAY A. DESHMUKH, J.)

(VINAY JOSHI, J.)

C.L.Dhakate