



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 737 OF 2025

Tatyrao Dinkar Jadhav.
Age:- 39 Years, Occu- Service.
R/o- Wakti Tq- Vaijapur,
Dist- Chatrapati Sambhajinagar,
(Aurangabad).

...APPLICANT

- VERSUS -

1. The State of Maharashtra
Through Virgaon Police Station.
2. XYZ.

...RESPONDENT

...
Ms. Rutuja L. Jakhade-Kulkarni, Advocate h/f Shri Kulkarni
Suniket Anil, Advocate for the Applicant.
Shri G.A. Kulkarni, APP for Respondent No.1/State.
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CORAM : SMT. VIBHA KANKANWADI
&
SUSHIL M. GHODESWAR, JJ.

DATE : 21 August 2025

Per Court :-

The present application has been filed for quashing
the proceedings in R.C.C. No.64/2025 pending before the
learned JMFC, Vaijapur, District Aurangabad, arising out of the
FIR vide Crime No.391/2024 registered with Virgaon Police

Station, District Aurangabad for the offences punishable under Sections 376(1), 376(2)(n), 504 and 506 of the Indian Penal Code.

2. Heard the learned advocate for the applicant and the learned APP for respondent No.1/State. There is no necessity to issue notice to respondent No.2.

3. After taking us through the entire charge-sheet, the learned advocate for the applicant submits that from the entire FIR, it can be seen that the relationship between the prosecutrix and the accused/ applicant turned out to be consensual relationship. Even her family members had come for marriage talks. Further, the applicant and the prosecutrix appeared to have met for the first time on 23.12.2022 and on that day also, there was sexual intercourse between them. They continued physical relations thereafter also and the last act appears to be on 19.02.2024. However, the FIR came to be lodged on 08.12.2024. There is huge delay in lodging the FIR. So also, the material in the charge-sheet would show that the informant/ prosecutrix had refused medical examination, therefore, that aspect will have to be taken adversely to the prosecutrix. The statements of

witnesses are in the form of hearsay evidence and, therefore, only on the basis of the sole contentions in the FIR, the applicant cannot be asked to face the trial.

4. At the outset, we would like to say that the medical examination or medical evidence would always be corroborated in nature. Whether to consider the refusal on the part of the informant to undergone the medical test, would be the matter of evidence and not to be considered at this stage under Section 482 of the Code of Criminal Procedure.

5. Perusal of the FIR would show that the prosecutrix had registered herself in matrimony site and then, from that she received a phone call from the applicant. It was told that the applicant is serving in the Central Reserve Police Force (CRPF) and he expressed willingness to perform marriage with her. It is then stated that he had called her to Aurangabad on 23.12.2022 and had then taken her to hotel for lunch and then went to lodge. Thereafter, by giving promise to marry, he had sexual intercourse with her. It was disclosed by the applicant that he had first marriage, but has obtained divorce so that was an impression that appears to have been given to the prosecutrix.

6. Further, the prosecutrix states that she had gone to the village of the applicant on 09.04.2023 and then, she found that his wife was in the house. When the prosecutrix asked about her, the applicant had abused and drove her out of the house. But, thereafter he again made a phone call and gave an impression that by giving divorce to the first wife, he would perform marriage with her. Thereafter, she had given the complaint to the Virgaon Police Station on 11.07.2023, but it was in respect of abuses. The applicant had then insisted that she should take back the said complaint and then he would perform marriage. Again by giving promise to marry, it appears that he established physical relations and ultimately, when her parents had gone for settlement of marriage, he raised demand of dowry of Rs.5 lac and then, he refused.

7. The applicant is serving in CRPF and, therefore, his behaviour should be above level and when it is expected from him that he would serve for the contrary, he cannot indulge himself in such activities. It can further be seen that even as regards the first incident is concerned, the consent cannot be said to be free consent because the promise was different and the fact

was different. Since beginning it appears that he had intention to cheat and later on, it has been then reflected in his further acts. Inspite of having spouse from legally wedded marriage, he had indulged himself in such activities. The possibility of addition of Sections 417 and 420, if any, cannot be ruled out, apart from the sections under which now the charge-sheet is filed. As regards the cases involving sexual assault or harassment, even the sole testimony can be believed/ trustworthy, of course it will have to be then weighed by the Trial Court.

8. In such circumstances, we do not find this to be a case where we should exercise our powers under Section 482 of the Code of Criminal Procedure. The Criminal Application deserves to be rejected at threshold. Accordingly, it is rejected.

kps

(SUSHIL M. GHODESWAR, J.) (SMT.VIBHA KANKANWADI, J.)