



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1015 OF 2024

- 1 Bhatu @ Sagar Madhukar Patil,
Age 26 yrs., Occ. Driver,
- 2 Pushpabai Madhukar Patil,
Age 50 yrs., Occ. Household,

Both are r/o Indira Nagar, Songir,
Tq. & Dist. Dhule.
- 3 Samadhan Ramesh Patil,
Age 30 yrs., Occ. Driver,
R/o Plot No.5, Kamathwada,
Nashik, Tq. & Dist. Nashik.
- 4 Vaishali Samadhan Patil,
Age 28 yrs., Occ. Household,
R/o Plot No.5, Kamathwada,
Nashik, Tq. & Dist. Nashik.
- 5 Vijay Baburao Vasande,
Age 31 yrs., Occ. Driver,
R/o R. H. No.13, Saibaba,
Salunkhe Nagar, Kamathwada,
Nashik, Tq. & Dist. Nashi.
- 6 Pravin Pralhad Patil,
Age 36 yrs., Occ. Service,
R/o Indira Nagar, Songir,
Tq. & Dist. Dhule.
- 7 Dipak Madhukar Patil,
Age 22 yrs., Occ. Agri.,
R/o Indira Nagar, Songir,
Tq. & Dist. Dhule.

- 8 Sunil Devidas Patil,
Age 34 yrs., Occ. Agri.,
R/o Indira Nagar, Songir,
Tq. & Dist. Dhule.
- 9 Ajay Namdeo Patil,
Age 27 yrs., Occ. Agri.,
R/o Indira Nagar, Songir,
Tq. & Dist. Dhule.
- 10 Eknath Bhoju Patil,
Age 69 yrs., Occ. Agri.,
R/o Indira Nagar, Songir,
Tq. & Dist. Dhule.

... Applicants

... **Versus** ...

- 1 The State of Maharashtra
- 2 XYZ
Guardian of victim

... Respondents

...

Mr. A.D. Sonar, Advocate for applicants

Mrs. R.P. Gour, APP for respondent No.1

Mr. S.B. Akhade, Advocate for respondent No.2

...

**CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.**

RESERVED ON : 17th FEBRUARY, 2025

PRONOUNCED ON : 11th MARCH, 2025.

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present application has been filed for quashing proceedings in Special Case No.97/2023 pending before learned Special Judge, under POCSO Act, Dhule arising out of First Information Report vide Crime No.90/2023 dated 13.04.2023 registered with Police Station, Songir, Tq. & Dist. Dhule, for the offence punishable under Sections 363, 376, 506 of the Indian Penal Code, 1860, under Sections 4, 17 of the Protection of Children from Sexual Offences Act, 2012 and under Section 9, 10 of the Child Marriage Prohibition Act, 2006.

2 It will not be out of place to mention here that after hearing learned Advocate for applicants and disinclination is shown to grant any relief to applicant Nos.1 to 4, learned Advocate for applicants, upon instructions, seeks withdrawal of application as against them. Application stands disposed of as withdrawn as against applicant Nos.1 to 4. Application proceeded for the reliefs claimed by applicant Nos.5 to 10.

3 Heard learned Advocate Mr. A.D. Sonar for applicants, learned APP Mrs. R.P. Gour for respondent No.1 and learned Advocate Mr. S.B. Akhade for respondent No.2. In order to cut short, it can be said that they have argued in support of their respective contentions.

4 Respondent No.2 is guardian of victim minor, who had lodged complaint for kidnapping that is under Section 363 of the Indian Penal Code in respect of minor with Police Station, Songir on 13.04.2023. Later on she was found with original accused No.1, after they had come back to Songir on 20.05.2023. Thereafter, supplementary statement of informant was got recorded, so also statement of victim was recorded and then later on other sections came to be added. Now, we are concerned with applicant Nos.5 to 10. As regards role played by these persons is concerned, statement of girl would show that she refers to applicant Nos.6 to 10 only. She has given statement so many times and there is explanation after explanation. The first statement which she gave is dated 20.04.2023, which was immediately on the date she returned to Songir, wherein she had stated that she had gone with applicant No.1 voluntarily and nobody has kidnapped her. But then on 24.04.2023 her supplementary statement has been recorded, wherein she says that it was due to pressure from applicant No.1 and others. She says that applicant No.1 had forcibly taken her on motorcycle to Malegaon and then by four wheeler to Nashik, where the marriage was registered and at that time cousin sister of applicant No.1, sister's husband and applicant No.5 were present. Now as regards applicant No.5 is concerned, she has not stated whether he was knowing her prior to 13.04.2023. If applicant No.5 was not knowing her earlier, still he was present along with relatives of

applicant No.1, how he could have come to know that she was minor, is a question. Further, at the time of marriage she had given different age, which showed that she had completed 18 years of age. Then as regards applicant Nos.7 to 10 is concerned, she now states that they had threatened her that she should give her statement in a particular way and, therefore, she had given such statement on 20.04.2023. Interesting point is that when her said statement was recorded on 20.04.2023, her parents and uncle were present. Whether parents had not made her comfortable before her statement was recorded, is a question. In her statement under Section 164 of the Code of Criminal Procedure, she states that applicant No.1 brought her to Police Station, Songir and then applicant No.1's mother had given her threat that she should tell in Police Station that she even does not know her parents. She then states that applicant Nos.6 to 10 gave her threat. Now, where exactly the threat was given, who were present there etc., is not at all stated. Therefore, ingredients of any offence are not attracted against applicants merely on the basis of said vague statement and, therefore, it would be unjust to ask applicant Nos.5 to 10 to face the trial. Case is made out for exercise of powers under Section 482 of the Code of Criminal Procedure in their favour. Hence, following order.

ORDER

- i) Criminal Application stands partly allowed.
- ii) Criminal Application stands disposed of as withdrawn, after disinclination, as against applicant Nos.1) **Bhatu @ Sagar Madhukar Patil**, 2) **Pushpabai Madhukar Patil**, 3) **Samadhan Ramesh Patil** and 4) **Vaishali Samadhan Patil**.
- iii) Criminal Application stands allowed as against applicant Nos.5) **Vijay Baburao Vasande**, 6) **Pravin Pralhad Patil**, 7) **Dipak Madhukar Patil**, 8) **Sunil Devidas Patil**, 9) **Ajay Namdeo Patil**, 10) **Eknath Bhoju Patil**.
- iv) The proceedings in Special Case No.97/2023 pending before learned Special Judge, under POCSO Act, Dhule arising out of First Information Report vide Crime No.90/2023 dated 13.04.2023 registered with Police Station, Songir, Tq. & Dist. Dhule, for the offence punishable under Sections 363, 376, 506 of the Indian Penal Code, 1860, under Sections 4, 17 of the Protection of Children from Sexual Offences Act, 2012 and under Section 9, 10 of the Child Marriage Prohibition Act, 2006, stands quashed and set aside as against applicants Nos.5 to 10.

(**SANJAY A. DESHMUKH, J.)**

(**SMT. VIBHA KANKANWADI, J.)**