



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1184 OF 2024

Amol s/o Shankar Sable
Age 22 years, Occ. Agriculture
R/o. Jamb Andha, Tq. Sengaon,
District Hingoli

...Applicant

Versus

1. The State of Maharashtra
Through Police Inspector,
Aundha Nagnath Police Station
Tq. Aundha, District Hingoli

2. The Superintendent of Police
Hingoli, District Hingoli

3. XYZ (Informant)

...Respondents

.....
Mr. Y.B. Bolkar, Advocate for the applicant
Mrs. Rashmi P. Gour, A.P.P. for respondent Nos.1 and 2
Mr. M.R. Deshmukh, Advocate for respondent No.3 (appointed).
.....

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

DATED : 29th APRIL, 2025

O R D E R (PER SANJAY A. DESHMUKH, J.) :-

1. The applicant has filed this application under section 482 of the Code of Criminal Procedure, 1973 (for short the Cr.P.C.) for quashing of First Information Report (for short "F.I.R.") No.232 of 2023, registered with Aundha Nagnath police station, Aundha, Tq. Aundha, District Hingoli for the offences punishable under Section

376, 506, 34 of the Indian Penal Code, 1860 (for short the "I.P.C."), consequential charge sheet No. 201 of 2023 and the Sessions Case No. 92 of 2023 pending before the learned Additional Sessions Judge, Hingoli.

2. Respondent No.3-informant averred in the report that she is residing with her husband, parents in law, daughter and son. She and her family members are labourer. The informant further averred that one Bhujang Trimukh Guvhade was her neighbour. The nephew of Bhujang Guvhande viz. Deepak Yadavrao Guvhade, resident of Tanda used to come to his uncle Bhujang frequently. He was having ill eye on her. She did not pay any heed to him and neglected him.

3. The informant further averred that on 16.06.2023, at about 10.00 a.m. her mother in law went outside the house, father-in-law went in the agricultural land, her husband went for construction of cow shed in the field of Dnyaneshwar Banduke. The informant and her two children were in the house. Deepak Guvhade came there alongwith his friends Vishal Kisan Guvhade, Balaji Pralhad Guvhade, Amol Shankar Sable. These three persons were standing outside the house. Deepak Guvhade came to her and insisted her to come with him in the agricultural land at Mal. She refused to come. On threatening, she went with him in the agricultural land at Mal under his fear. He sat under a tamarind tree. He said that he likes her very

much. If she refused he will kill her and her husband. She refused, however, he forcibly made her to fall down and committed sexual intercourse against her will. At that time, the friends of said Deepak Guvhade including the applicant were there. They did not allow anybody to come to rescue her. They were keeping watch in that area so that nobody will come there. She tried to rescue herself by making hue and cry but because of threat of Deepak Guvhade she could not succeed. After commission of rape, he threatened her that if she tells about the said incident to anybody, she will face the dire consequences. Therefore, she lodged the report on 22.06.2023 against the applicant and other accused persons.

4. Learned advocate for the applicant submitted that on the given date and time, the applicant was not present at the spot of incident but he was at S.T. stand at Jintur. The applicant is having CCTV footage to that effect. The investigation in the crime is over and the police machinery have filed the charge sheet. The case is committed in the court of Sessions. Learned advocate further submitted that on perusal of the charge sheet, it is clear that no offence can be said to be made out against the applicant at any stretch of imagination. From the contents of the F.I.R., the supplementary statement of the informant and the statement recorded under Section 164 of the Cr.P.C. of the informant, it

transpires that there are material contradictions in her version. Learned advocate further submitted that the story put-forth by the informant do not corroborate the spot panchnama conducted by the police machinery. There is delay in lodging the F.I.R. which is not explained satisfactorily. Learned advocate for the applicant submitted that on such material, compelling the applicant to face the trial would be an abuse of process of the Court.

5. Learned A.P.P. for respondent Nos. 1 and 2 submitted that the applicant has committed serious crime, as he had abetted the main accused in committing the offences in question. From the allegations of the F.I.R. and the statement of the witnesses, it appears that the present applicant and others, who are friends of the main accused, had kept watch in the surrounding area and prevented other persons not to come at the place of offence. Learned A.P.P. lastly prayed to reject the application.

6. Learned advocate for respondent No.3-informant submitted that the contents of F.I.R. and the material collected by the investigating agency, support the allegations made by the informant. The offence in question has been committed by the applicant and other accused persons in furtherance of their common intention. If two or more people commits a crime together with a shared object, each of them can be held equally liable, as if they are the sole

perpetrator. It's crucial to note, it does not require that each of them to actively participate in every aspect of the crime, only that they share the common intention and actively participate in the overall commission. Learned advocate for respondent No.3 lastly prayed to reject the application.

7. We have perused the charge sheet, particularly the report and the statements of witnesses. It is alleged that the applicant and other accused persons had committed the said offence. The active participation of the applicant is there in the said crime. The defence of the applicant that he was not present at the spot of incident, can be proved after conducting the full fledged trial. But at this stage, it cannot be said that the applicant was not present at the spot of incident. Considering such facts situation, the applicant has to face the trial to prove that he was not present at the spot of incident at the time of commission of offence. It is matter of evidence. The application cannot be allowed by invoking our powers under Section 482 of the Cr.P.C. for quashing the report and charge-sheet. Hence, the following order:-

O R D E R

I. Criminal application stands rejected.

II. We quantify the legal fees and expenses of learned advocate appointed to represent the cause of respondent No.3, at Rs.7000/- (Rupees Seven thousand only) to be paid by the High Court Legal services Sub Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.) (SMT. VIBHA KANKANWADI, J.)

rlj/