



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

18 CRIMINAL WRIT PETITION NO. 820 OF 2022

Amol s/o Bharat Kale,
Age : 39 years. Occ : Service,
R/o. In the office of District
Prison Class-2, Parbhani,
Tal. & Dist. Parbhani,
At present Superintendent
office Central Jail, Nashik Road,
Tal. & Dist. Nashik.

...PETITIONER

Versus

1. Shubhangi D/o Vishwanath Uplanchwar,
Age : 33 years, Occ : Service,
R/o . Vrundawan Colony, Karegaon Road,
Parbhani, Tal. & Dist. Parbhani.

2. The State of Maharashtra
Through Police Station Nanalpeth
Parbhani in Crime No. 169/201

... RESPONDENTS

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Advocate for the Petitioner : Mr. Shaikh Ashraf Patel
Advocate for Respondent No.1 : Mr. N. P. Chudiwal (appointed)
APP for Respondent No. 2 : Mr. A. S. Deshmukh

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 27.01.2025

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ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith. With consent of
both the sides heard finally at the stage of admission.

2. By the present petition, the Petitioner challenges the order dated 11.04.2022 passed by the learned Additional Sessions Judge, Parbhani, in Criminal Revision No. 136/2017, thereby affirmed order of issuance of process passed by the Judicial Magistrate First Class Parbhani, on 04.09.2017 in R.C.C. No. 159 of 2017 against the Petitioner for the offences under sections 354, 354-A, 354-B and 354-D of the Indian Penal Code.

3. Having regard to the submissions canvassed on behalf of both the sides, I have gone through the paper books of the petition. The record indicates that, the Informant/Respondent No. 1 initially lodged a F. I. R. with Nanalpeth Police Station, District Parbhani and alleged that, on 04.07.2015 at about 01.00 p.m. in lunch hour all the employees of District Jail had gone out and the Petitioner/accused made a demand of physical relations with her and outraged her modesty by catching hold and tried to remove her clothes. It is further alleged that, since last year, the accused had allegedly taken disadvantage of her being alone at her workplace and repeatedly teased her by saying "*I love you*". So also, he also made unwelcome remarks about her appearance stating that, she looking '*very smart*' and '*sexy*' in a Saree. Based on said Report, a Crime No. 169/2015 was registered

with Nanalpeth Police Station, District Parbhani. Following an investigation, the Investigating Officer submitted a proposal for the acceptance of a “B” Summary Report. However, the victim objected to said B Summary Report by filing the protest petition.

4. On 20.03.2017, the learned Judicial Magistrate First Class passed an order and refused to accept the “B” Summary and called upon the informant to give her statement on oath u/s 200 of the Cr.PC. Accordingly, the Complainant entered into witness box and her statement was recorded on oath. Upon satisfaction, the learned JMFC opined that, the complainant has made out prima facie case for issuance of process against the Accused. Therefore, the learned JMFC passed an order on 04.09.2017 and issued process against the Petitioner/accused for the offences punishable under Sections 354, 354-A, 354-B and 354-D of the Indian Penal Code. While passing the said order, the learned Judicial Magistrate First Class also observed that, the complainant is a married lady and she can’t put her character on stake.

5. Aggrieved by the said order, the Petitioner invoked the revisional jurisdiction under Section 397 of the Code of Criminal Procedure by filing Criminal Revision No. 136/2017. On 11.04.2022,

the learned Additional Sessions Judge, Parbhani, passed the impugned order holding that, the learned Judicial Magistrate First Class considered the averment made in the complaint, Police Report as well as the statement of the victim/ Respondent No.1 recorded u/s 200 of Cri. P. C., and after satisfying that the accused allegedly committed an offence, hence, issued process.

6. Needless to say that, the Petitioner and Respondent No.1 are working in the same office i.e. District Jail Authority, Parbhani. The Petitioner is married person. As per the averment made in the complaint it appears that, the Petitioner raised demand of sexual favour from the victim and also exchanged comments relating to her sexuality and passed dialogue like "*I love you*" and "*She looks very sexy in the Saree*". The Respondent No.1 – victim further alleged that, when other employees were left the working place during lunch hours, the accused allegedly raised repeated demands for sexual favour against her and caught hold of her and attempted to remove her clothes, which prompted her to raise an alarm.

7. In case of *Aman Kumar Vs. State of Haryana, AIR 2004 Supreme Court 1497* and in the case of *Raju Pandurang Mahalle Vs. State of*

Maharashtra, AIR 2004 Supreme Court 1677, it has been held that, the act of pulling a woman, attempting to remove her clothing, and making requests for sexual intercourse constitutes an offence of outraging a woman's modesty and knowledge that the modesty is likely to be outraged is sufficient to constitute an offence without any deliberate intention having such outrage alone for its object.

8. In case of ***Rupam Deval Bajaj Vs. APMC, 1995(6) SCC 194***, wherein the Supreme Court held that, when the accused slapped a lady IAS officer of the Punjab Cadre on her back in a public place, the sequence of events prima facie amounted to an offence of outraging her modesty. In case of ***Vishakha Vs. State of Rajasthan and others, 1999 Supreme Court 3011***, the Hon'ble Supreme Court laid down guidelines for addressing sexual harassment at the workplace, emphasizing the need for protective mechanisms for women.

9. In the case in hand, it prima-facie appears that, the investigation Officer filed a "B" Summary considering the statements of some of the witnesses. However, in case in hand, the respondent No.1 is a married woman and in the Indian Society no married woman can stake her character by blaming on other male about outrage of her modesty

unless such incident is occurred. The Complainant made the allegation about outrage of her modesty against her colleague i.e. petitioner at the working place. Therefore, there appears substance in the averment made in the complaint.

10. It is a well-settled principle of law that, the defense of the accused cannot be considered at the stage of process issuance. The dispute about outrage of modesty of the complainant or not cannot be considered without full-fledged trial and without providing an opportunity to both the parties. Therefore, I find that the findings recorded by the learned Revisional Court as well as the findings recorded by the Trial Court does not appear perverse, illegal and bad in law. Therefore, no interference is called at the hands of this Court to disturb concurrent findings recorded by both the courts below. Accordingly, the petition is dismissed. Rule is discharged. The earlier interim relief granted by this Court hereby stands vacated.

11. The Fees of the appointed counsel is quantified to Rs.10,000/-.

(Y. G. KHOBRADE, J.)