



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

CRIMINAL WRIT PETITION NO. 1128 OF 2024

Parikshit Shivaji Bhavar
Age: 32 years, Occ: Service,
R/o: At Post: Deo Takli,
Tal. Shevgaon, Dist. Ahmednagar,
At present : R/o. 502, Mayuri Tarangan,
Wagholi Lohegaon Road, Wagholi,
Tal. Haveli, Dist. Pune

... PETITIONER
(Ori. Accused No.5)

VERSUS

1. The State of Maharashtra,
Through its Investigating Officer,
Sonai Police Station, Tal. Newasa,
Dist. Ahmednagar

2. X.Y.Z.

... RESPONDENTS
(Resp. No.2 Org. Complainant)

....

Mr. Yuvraj V. Kkade, Advocate for the Petitioner
Ms B. B. Gunjal, APP for Respondent No.1 – State
Mr. Ganesh P. Darandale, Advocate for Respondent No.2

....

**CORAM : SANDIPKUMAR C. MORE AND
Y. G. KHOBRAGADE, JJ.**

DATE : December 05, 2025

ORDER: (PER: Y. G. KHOBRAGADE, J.) :-

1. Rule. Rule made returnable forthwith and heard
finally at the stage of admission.

2. Heard at length Mr. Kakade, the learned counsel for the petitioner, Ms Gunjal, learned APP for the Respondent no. 1 and Mr. Darandale, learned counsel for respondent No.2.

3. By the present petition, the petitioner is seeking quashment of F.I.R No.354 of 2023, registered with Sonai Police Station, Tq. Newasa, Dist. Ahmednagar, for the offence punishable under Section 376(2)(n) of the Indian Penal Code.

4. In Crime No.354 of 2023, the present petitioner is accused No.5 and brother-in-law of main accused Sagar. The petitioner and other accused are enlarged on bail in said crime by common order dated 25.08.2023, passed by the learned Additional Sessions Judge, Newasa, District Ahmednagar.

5. After going through the record it appears that, on 08.08.2023, respondent No.2 victim lodged an F.I.R. with Sonai Police Station, Taluka Newasa, District Ahmednagar and alleged that, since past 7 – 8 years she knows Sagar Dattatray Chandghode and both of them developed physical relations on number of occasions at various places. Her friend Sagar promised her about performing marriage

with her. The petitioner who is brother-in-law of Sagar visited them at their room and assured them for solemnizing their marriage. When both of them were staying together as husband and wife for one and half month in an independent room but no marriage was performed. On the basis of said, F.I.R. Crime No.354 of 2023 was registered against the present petitioner and others for the offence punishable under Section 376(2)(n) of I.P.C.

6. Needless to say that, after completion of investigation, the I. O. filed the charge-sheet against all the accused including the present petitioner (original accused No.5) for offence punishable under Section 376(2)(n) of I.P.C..

7. On perusal of F.I.R., charge-sheet as well as victim's statement and statements of other witnesses it does not reveal that the present petitioner had committed sexual intercourse with the victim. There are no allegation against the present petitioner about committing sexual assault. However, allegations appears against the present petitioner is that, he is the brother-in-law of the main accused Sagar and the petitioner had only assured the victim to solemnized marriage between her and Sagar as they were residing as husband

and wife. Therefore, this Court does not find that sufficient material are brought on record to frame a charge against the present petitioner for the offence punishable under Section 376(2)(n) of the I.P.C.. Therefore, putting the present petitioner on trial would amount to an abuse of the process of law and therefore conducting such a trial would be an unfruitful exercise as well .

8. Section 482 of the Cr.P.C., empowers this Court to exercise inherent jurisdiction in the circumstances that, (i) to give effect to an order of the Court, (ii) to prevent abuse of the process of law, and (iii) to otherwise secure the ends of justice.

9. On going through the F.I.R. as well as charge-sheet, it is evident that there are specific allegations against accused No.1 Sagar Dattatray Chandghode who developed sexual relations with the victim under the pretext of marriage, but he turned down from his promise. No specific allegations about forcibly sexual intercourse is attributed towards the present petitioner. The F.I.R. along with the complaint as well as the material collected by the Investigating Officer and produced along with the charge-sheet, even considered at its face value, no *prima facie* offence constitutes against the present

petitioner (accused No.5) under Section 376(2)(n) of I.P.C. and continuing the proceeding against the present petitioner would certainly abuse of process of law and unfruitful exercise. Therefore, in our considered view, the petitioner has made out the case to quash and set aside the impugned F.I.R. bearing Crime No.354 of 2023, registered on 08.08.2023 with Sonai Police Station, Taluka Newasa, District Ahmednagar against the present petitioner/original accused No.5 as well as charge-sheet in said crime, which is registered as R.C.C. No.94 of 2024 before the learned Chief Judicial Magistrate, Newasa and after committal registered as Session Case No. 20 of 2025.

10. In view of above discussion, we proceed to pass the following order:

:: ORDER ::

- (i) The Writ Petition is allowed.
- (ii) The F.I.R. bearing Crime No. 354 of 2023, registered with Sonai Police Station, Taluka Newasa, District Ahmednagar, for the offence punishable under Section 376(2)(n) of I.P.C. against the present petitioner/original accused No.5 as well as the charge-sheet filed in the said crime, which is registered as R.C.C. No.94 of 2024 before the learned

Chief Judicial Magistrate, Newasa, and after committal registered as Session Case No. 20 of 2025 against the petitioner are hereby quashed and set aside.

(iii) Accordingly, Rule is made absolute. No order as to costs.

[Y. G. KHOBRADE, J.]

[SANDIPKUMAR C. MORE, J.]

SMS