



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3452 OF 2024

1. Ram S/o. Ukandji Dukrewad,
Age : 59 Years, Occu. : Agril.,
R/o. Gokunda, Tq. Kinwat,
Dist. Nanded.
2. Ajay S/o. Ram Dukrewad,
Age : 27 Years, Occu. : Agril.,
R/o. Gokunda, Tq. Kinwat,
Dist. Nanded.
3. Pratima Ram Dukrewad,
Age : 33 Years, Occu. : Agril.,
R/o. Gokunda, Tq. Kinwat,
Dist. Nanded.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Police Station Bhagyanagar,
Nanded, Tq. & Dist. Nanded.
2. XYZ

.... Respondents

....
Advocate for Applicants : Mrs. Surekha G. Chincholkar

APP for Respondent No.1-State : Mr. V.K. Kotecha

Advocate for Respondent No.2 : Mr. P.V. Gole h/f Mr. V.D. Gunale

....

AND

CRIMINAL APPLICATION NO. 3453 OF 2024

1. Sheshekalabai W/o. Manikrao Tilewad,
Age : 66 Years, Occu. : Household & Agril.,
R/o. Korata, Tq. Umarkhed,
Dist. Yavatmal.

2. Manikrao S/o. Champatrao Tilewad,
Age : 80 Years, Occu. : Agril.,
R/o. Korata, Tq. Umarkhed,
Dist. Yavatmal.
3. Arun S/o. Manikrao Tilewad,
Age : 50 Years, Occu. : Agril.,
R/o. Korata, Tq. Umarkhed,
Dist. Yavatmal.
4. Vinod S/o. Manikrao Tilewad,
Age : 43 Years, Occu. : Agril.,
R/o. Korata, Tq. Umarkhed,
Dist. Yavatmal.

.... Applicants

VERSUS

1. The State of Maharashtra
Through Police Station Bhagyanagar,
Nanded, Tq. & Dist. Nanded.
2. XYZ

.... Respondents

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Advocate for Applicants : Mrs. Surekha G. Chincholkar
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. P.V. Gole h/f Mr. V.D. Gunale
....

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

Dated : 16th July 2025

ORDER [PER SANJAY A. DESHMUKH, J.] :-

1. Heard learned Advocate for both sides as well as learned
APP for the State.

2. The present applications are filed for quashing the First Information Report (hereinafter referred to as “the F.I.R.”) and charge-sheet bearing No.63 of 2022, under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “the Cr.P.C.”), arising out of Crime bearing No.0169 of 2022, registered with Bhagya Nagar Police Station, Dist. Nanded, dated 16.05.2022, for the offences punishable under Sections 376(2)(n), 420, 509, 120(B), 504 and 506 read with Section 34 of The Indian Penal Code, 1860 (hereinafter referred to as “the I.P.C.”).

3. Learned Advocate for the applicants pointed out the report dated 16.05.2022, in which respondent No.2/informant averred that she is a police constable. In the year 2018, when she was serving at Kinwat, she went to her sister's house at Korta, Tq. Umerkhed, Dist. Yavatmal. That time, she met with accused No.1 Raju Tilewad and they got acquainted with each other. They exchanged their mobile phone numbers and started talking with each other. In the year 2016, she got married. It was a love marriage. Her parents opposed that marriage. After marriage, her husband treated her with cruelty. Therefore, in the year 2017, she filed a divorce proceedings against him.

4. The informant further averred in her report that despite knowing the fact that she filed divorce proceeding in the Court, Raju Tilewad tried to express affection towards her and talk with her in decent manner. She came to know that he was taking disadvantage of her loneliness and divorce proceedings, therefore, she rebuffed him and ended communication with him. Thereafter, he came to her house and told her that he loves her, he did not have any problem with her being married, he will marry her, he would make her happy and assured her. He was trying to understand her difficulties. She believed his words and as she was in grief and in hopeful that sooner or later, divorce will happen, therefore, she started communication with him by means of phone calls, messages, chatting, etc.

5. The informant further averred in her report that, Raju Tilewad used to come to meet her at Police Quarters Nanded. Their conversation happened more after they spent more time together. Therefore, rumors were spreading about them among their relatives. Therefore, she stopped talking with him. That time, Raju told her that if she stops talking with him, what will happen with him, as soon as she gets divorce, he would marry her, until then, he would focus on study for competitive exams. He made her to believe that their married life would be better if he secures a job. He informed about

their marriage to his family members. His family members agreed to their marriage. Since then, she used to go his house. The nephew of Raju viz. Shubham Tilewad was brought by him to her for education. She spent her money on his education and on the say of Raju, she gave money to applicant No.3 Arun Tilewad and No.4 Vinod Tilewad in C.A. No.3453 of 2024. Moreover, she mortgaged her ornaments and gave money to Raju. She obtained a loan of Rs.1 Lakhs and gave it to Raju for construction of his house. Therefore, his love was increased towards her and he, intermittently, used to come to meet her. That time, her sister's sons and nephew of Raju were taking education and residing in her room. They were knowing that fact.

6. The informant further averred in her report that, Raju Tilewad was expressing his desire of physical relationship, but she opposed and refused the said demand. Once, she met with an accident and Raju came to meet her. He expressed his desire of sexual intercourse and forcibly established physical relationship with her without her wish. Thereafter also, on the pretext of marriage, he forcibly established physical relationship with her at three different places. She did not tell that fact to anybody as she was in fear of maligning her image. On 01.09.2021, she got divorce and asked Raju to fix the date of marriage. Thereupon, he gave evasive answers to

her and avoided to talk with her. Therefore, on 22.12.2021, she went to village Korata and asked the parents of Raju for marriage. His parents told her to call her parents. On 23.12.2021, a meeting was organized between her family members and family members of Raju. In that meeting, it was decided to perform ring ceremony after *Paush* month and thereafter, to fix the date of marriage. On the same day, applicant No.3 Arun Tilewad called her at his house. She went there, but Raju was not present. Therefore, she tried to call Raju by making phone call, but he was out of reach.

7. The informant further averred in her report that, on 25.12.2021, she received threatening messages from the mobile of applicant No.2 Ajay Dukrewad. Thereafter, she went to Nanded for duty. After *Paush* month, she contacted with the applicants and asked for marriage. They did not respond her and tell about Raju. Thereafter, she contacted applicant No.1 Ram Dukrewad by making phone call. The wife and daughter of Ram Dukrewad abused her and defamed her and told her to not to call them. She then contacted applicant No.4 Vinod Tilewad by making a phone call. He abused her in filthy language and threatened to kill her. On 08.02.2022, she made a complaint with Tanta Mukti President at Korata as Raju was not in contact. The president of that committee communicated her in

writing that she could take her own decision. On 23.02.2022, she sent a letter on Whats APP to their community based Samiti at Yavatmal and Nanded. They took cognizance of the letter and asked Arun Tilewad about Raju. He informed them that Ram Dukrewad knew about Raju. Then, they contacted Ram Dukrewad. He told them that he communicated with Raju through Maroti Pilwad and Datta Pilwad, but, Raju did not appear before any committee. Therefore, on 14.03.2022, she went to search Raju at his house. Family members of Raju abused her and jostled with her. She told them that she will not go until she meets with Raju and stayed in their house. Family members of Raju were not searching him and threatened her that if something bad happened with Raju, they will kill her. She was frightened and on 18.03.2022, she went back with Datta Pilwad. Though Raju left the house, no missing report was lodged by the family members.

8. The informant further averred in her report that on 24.03.2022, her former husband made a phone call to her and said that he is at village Korata and he talked to Raju and his parents. He abused her in filthy language and threatened her. Therefore, she blocked his number. Prior to that also, he treated her with mental and physical cruelty. On 18.09.2021, she lodged N.C. complaint against

him. Thereafter also, he was bothering her frequently by making phone calls from different numbers. Because of Raju and his family members, in order to rescue from the clutches of the informant, the applicants conspired to harass her and because of that, her earlier husband was harassing her. If Raju would have produced before the committee of their community, he would have performed the marriage with her. But, his family members did not allow her to contact Raju and deliberately concealed him and tried to mislead her. Raju has cheated many girls frequently and exploited them sexually and economically. He extracted four lakhs rupees from her and under the false assurance of marriage, cheated her and committed rape on her frequently. Therefore, she lodged the report.

9. Learned Advocate for the applicants submitted that the applicants are falsely implicated in the crime. General and vague allegations are made against the applicants. Though the specific incidents of cruelty is stated by the informant in the report and by the witnesses in their statements, the fact of cruelty is not established from the entire charge-sheet against the applicants. False allegations of cruelty are made against the applicants. The essential ingredients of offences punishable under Sections 376(2)(n), 420, 509, 120(B), 504 and 506 are not established against the applicants. If they are

compelled to face the trial, it would certainly be an abuse of the process of the Court. It is lastly prayed to allow the applications.

10. Learned APP and learned Advocate for respondent No.2 strongly opposed the applications and submitted that there is strong evidence of cruelty against the applicants. Their names are mentioned in the F.I.R. The applicants treated the informant with cruelty by cheating with her and resisted the co-accused Raju to perform marriage with her. It is lastly prayed to reject the applications.

11. We would like to rely on the decision of ***Pramod Suryabhan Pawar Vs. State of Maharashtra and Another, [2019(9) SCC 608]***, wherein it is observed that, "consent with respect to Section 375 of the Indian Penal Code involves an active understanding of the circumstances, actions and consequences of the proposed act. An individual who makes a reasoned choice to act after evaluating various alternative actions (or inaction) as well as the various possible consequences flowing from such action or inaction, consents to such action. The complainant and the appellant met regularly, travelled great distances to meet each other, resided in each other's houses on multiple occasions, engaged in sexual intercourse regularly over a course of five years and on multiple occasions then it was held that it cannot be said that acts fulfill or occurred offence

under Section 375 of the Indian Penal Code punishable under Section 376 of the Indian Penal Code was attracted. We are also taking note of the decisions in *Shambhau Kharwar Vs. State of Uttar Pradesh, [2022 SCC Online SC 1032]*. Of course this was differentiated on the facts in *Rajkumar Vs. State of Karnataka, [2024 SCC Online SC 257]*. However, the core is the same is that of *Pramod Suryabhan Pawar Vs. State of Maharashtra and Another (Supra)*.

12. We have perused the charge-sheet, particularly the report, statements of witnesses and report of medical examination. The applicants are relatives of co-accused Raju, who assured to marry the informant. He is not before this Court. The informant is 32 years old police constable. The informant, in order to establish that she paid several amount to Raju, his parents and other relatives, no documentary evidence is collected to that effect. The role of the applicants though stated by the informant in the report, it is not established by the independent corroborative material. It is a case of consensual relationship between the informant and co-accused Raju. There is no material to establish the cheating, abusing, intimidating, etc. against the applicants. The essential ingredients of Sections 420, 509, 120(B), 504 and 506 of the I.P.C. are not established from the entire charge-sheet against the applicants.

13. Considering all the aspects, above reasons and law laid down in the authorities cited supra, if the applicants are compelled to face the trial, it would certainly be an abuse of the process of the Court. We are, therefore, inclined to exercise our powers under Section 482 of the Cr.P.C. to quash the report and charge-sheet in the interest of justice to prevent the abuse of the process of the Court against the applicants. The applications deserve to be allowed. Hence, the following order.

ORDER

- I) The applications stand allowed.
- II) The First Information Report and charge-sheet bearing No.63 of 2022, arising out of Crime bearing No.0169 of 2022, registered with Bhagya Nagar Police Station, Dist. Nanded, dated 16.05.2022, for the offences punishable under Sections 376(2)(n), 420, 509, 120(B), 504 and 506 read with Section 34 of The Indian Penal Code, 1860 quashed against the applicants in both the applications.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

[PER SMT. VIBHA KANKANWADI, J.] :

1. I have gone through the order authored by learned Justice Sanjay A. Deshmukh. I agree to the operative part of the order, however, I want to add elaborate reasoning and therefore, present part of the order is added.

2. The facts of the case are already narrated and therefore, I am not reproducing the same. Perusal of the FIR would show that the allegations in respect of offence under Section 376(2)(n) of the Indian Penal Code are against accused No.1 Rajendra @ Raju Manikrao Tilewad. He is not before this Court, but the applicants in both the Applications are original accused Nos. 2 to 8 i.e. relatives of accused No.1 Raju and therefore, their role is then required to be considered in respect of other offences i.e. Sections 420, 509, 120-B, 504, 506, 34 of the Indian Penal Code. Neither the FIR nor the entire documents in the charge-sheet would show as to in respect of what the criminal conspiracy was hatched up. Whether it was in respect of cheating or for outraging of modesty or criminal intimidation or insult, is then required to be considered. However, taking into consideration the basic nature of the offences under Section 509, 504, 506 of the Indian Penal Code, there cannot be a criminal conspiracy.

Interestingly, Section 34 of the Indian Penal Code has also been invoked. Section 120-B and Section 34 of the Indian Penal Code cannot go together.

3. As regards Section 420 of the Indian Penal Code is concerned, the informant states that she has spent amount on the education of Raju as well as his nephews and on the basis of say of Raju she gave amount to the applicants, mortgaged her gold articles and gave amount for agricultural land, had taken loan of Rs.1,00,000/- in her name for the construction of the house of Raju. It appears that she would then connect it to Raju's decision not to marry and then she says that it is cheating. In all these facts she has not stated at any point of time any of the applicants had requested her or forced her to spend money on them. What was the representation made by them at that time and when she was yet to get divorce from her husband why she should spent so much amount on Raju and his family, is a question. The informant is not an ordinary rustic lady. She is police constable and for that purpose, should know the basic law/legal provisions. In spite of that if she was spending amount, then it will have to be taken as voluntary. It cannot attract the ingredients of Section 415 of the Indian Penal Code.

4. In the FIR, informant states that applicant Vinod Tilewad had abused her in filthy language on mobile phone, which amounted to outraging her modesty and thereupon it appears that Section 509 of the Indian Penal Code has been added. Now the details of the phone call, that means the date on which she had received the phone call, have not been stated. The CDR, SDR showing the said phone call is not annexed along with the charge-sheet. Except those words of the informant then there is no supporting evidence. Offence under Section 504, 506 of the Indian Penal Code are non-cognizable and therefore, I am also of the opinion that the Application deserves to be allowed. Thus, here I agree to the operative part of the order, above.

[SMT. VIBHA KANKANWADI]
JUDGE