



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2847 OF 2023

Arvind s/o Laxmanrao Babhalsure
Age 48 years, Occ. Business and
Agriculture
R/o. Killari, Tq. Ausa,
District Latur

...Applicant

Versus

1. The State of Maharashtra
Through the Police Inspector
Killari police station,
Tq. Ausa, District Latur

2. XYZ

...Respondents

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Mr. Kedar G. Anmole, Advocate for the applicants
Mr. A.D. Wange, A.P.P. for the respondent No.1
Mr. Mahesh P. Kale and Mr. Atul R. Muley, Advocates for respondent
No.2.

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

DATED : 24th APRIL, 2025

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

1. This application has been filed under section 482 of the Code of Criminal Procedure 1973 (for short the "Cr.P.C.") for quashing of the First Information Report (for short "F.I.R.") vide C.R. No. 156 of 2023 dated 20.06.2023, registered with Killari police station, Tq. Ausa, district Latur, for the offences punishable under sections 376(2)(n), 452, 294, 392, 427, 109, 323, 506 r.w. 34 of the

Indian Penal Code, 1860 (for short the "I.P.C.") and under Sections 3 and 25 of the Arms Act, 1959 as well as the consequential criminal case bearing R.C.C. No. 7 of 2023 pending before the Judicial Magistrate First Class, Ausa, District Latur.

2. The respondent No.2/informant averred in the report that earlier her marriage was performed but the divorce has taken place. She, alongwith her son and daughter, is residing with her mother. In the year 2022, the applicant's wife Archana paid her some amount as a hand loan. Out of that amount, she could not pay an amount of Rs.1,00,000/-. The applicant therefore, had sent one Vikram Lalu Jadhav along with other 5 persons at the residence of the informant to recover the said amount. The applicant gave him all details including her phone number with other details. The informant further averred that in the month of September, 2022, Vikram Jadhav, R/o. Anandwadi Tanda, Tq. Nilanga, district Latur came to her and told her a false name that he is Kiran Deshmukh and belongs to Maratha caste. He is serving in police department in LCB at Latur. He does not require to follow the dress code and his attendance to service is free at his will. He showed his revolver to her.

3. The informant further averred that on 03.09.2022 Vikram Jadhav said to her that he has two plots at Omerga. He said to her

that they will go there and will have a meal there. Accordingly, she went with him by a car No. MH-12-NB-3037 in a two storied lodge at Chourasta, Omerga, District Osmanabad. They took the meal there. He mixed some stupefying substance in that meal or in the thumps up, which she consumed. Therefore, she felt giddiness. After some time, when she regained consciousness, she saw that she was on the bed of lodge and realized that she has been sexually abused by Vikram Jadhav. She saw that Vikram Jadhav was sitting there. She asked him as to why he did so. He said to her that whatever happened has happened now, he is also Maratha. He showed her some photographs snapped during the sexual intercourse.

4. The informant further averred that when she came at Killari, Vikram Jadhav threatened her that he will send the photographs to her brother, sister-in-law and her children on their mobile handsets. He assured her that he will live with her forever and die with her. He said that he is unmarried. He threatened her to perform marriage with him. Otherwise, he will eliminate her entire family. Because of fear of Vikram Jadhav, she made a drama that she is happy with him. Meanwhile, he beat her for 5-6 times. The said Vikram Jadhav, at the point of revolver and by keeping sickle on her neck, committed sexual intercourse with her on 5.5.2023 at her home at Killari, in the agricultural field of Ram Ingle at Sarwadi, Tq. Nilanga, District Latur

at the residence of Vikram's sister at Pune from 23.3.2023 to 26.3.2023 and thereafter at the residence of his sister Bharatbai at Latur on 5.3.2023.

5. The informant further averred that in the month of December, 2022, she came to know that Vikram Jadhav belongs to Lamani and he is not serving in police department. He is a resident of Anandwadi Tanda. Thereafter, the said Vikram started to harass her and abused her frequently in filthy language.

6. The informant further averred that on 19.5.2023, at 12.00 a.m., Vikram Jadhav and one Balaji Ade both, under the influence of liquor, came at her residence. They tore her clothes and broke the mirror of cupboard and threatened her of dire consequences. Because of fear of Vikram Jadhav, the informant, her mother and her children went to Pune. On 14.6.2023, the informant came back at Killari. On 16.6.2023, at about 8 to 9 p.m. Vikram Jadhav came at the residence of the informant, he broke the chair and at the point of revolver, he took an amount of Rs.3,00,000/- from the cupboard and threatened that if she lodges the report against him, he will eliminate her entire family. He took away that amount with him. Therefore, the informant lodged the report against him.

7. Learned advocate for the applicant submitted that serious allegations of committing rape, snatching of amount of Rs.3,00,000/- by illegally entering in the house of the informant, are made against Vikram Jadhav and his friend. No overt act, as alleged by the informant, is attributed against the present applicant. The criminal liability of harassment and beating does not lie on the present applicant. He submitted that the applicant is falsely implicated in the crime. There is no evidence of paying the amount of Rs.1,00,000/- and recovery of the same against the applicant. The allegation against the applicant is that he directed the co-accused Vikram Jadhav to recover that amount from the informant. The said allegation is vague, baseless and omnibus and on the basis of such vague allegation, asking the applicant to face the trial would be an abuse of process of the Court. He prayed to quash the report and the consequential criminal proceedings pending against the present applicant.

8. Learned A.P.P. for respondent No.1 State strongly opposed the application by submitting that the applicant has asked co-accused Vikram Jadhav to recover the amount of Rs.1,00,000/- from the informant and abetted in commission of the said crime. The learned A.P.P. submitted that abetment by instigation, as defined in Section 107 of the I.P.C. occurs when someone induces another person to

commit an act that would be an offence if done by that person because of abetment by instigation etc.. Learned A.P.P. submitted that here in this case, the applicant has asked Vikram Jadhav to recover the amount and abetted him to commit the said crime. There is strong evidence against the applicant. It is lastly prayed to reject the application.

9. Learned advocate for respondent No.2-informant submitted that there are specific and serious allegations against the applicant of abetting the main accused Vikram Jadhav to commit the crime in question. The report also shows that this applicant asked Vikram Jadhav to recover the amount from the informant. The name of applicant is specifically mentioned in FIR with role attributed to him. The informant and her family members are under fear from him in future. Learned advocate lastly prayed to reject the application.

10. We have perused the charge sheet, particularly the report and the statements of witnesses. On bare perusal of the report, it reveals that the applicant directed Vikram Jadhav to recover the amount of Rs.1,00,000/- and said Vikram Jadhav harassed the informant. Though Sections 107 and 34 of I.P.C. are invoked against the applicant, there is no such evidence of abetment and common intention against the applicant. The entire charge-sheet does not

reveal as to how applicant had prevailed upon Vikram Jadhav to recover money. How informant came to know about it, is also not clear. No specific overt act of the applicant is spelt out from the report. Considering all facts of the case and reasons stated above, it is difficult to accept that the ingredients of offence punishable under Sections 392, 109 r.w. 34 of I.P.C. are attracted. Other offences are not alleged against this applicant. On such facts situation, if the applicant is compelled to face the trial, it would certainly be an abuse of process of the Court. Therefore, in the interest of justice and to prevent the abuse of process of the Court, we are inclined to exercise our powers under Section 482 of the Cr.P.C. for quashing of the report and the consequential charge sheet with criminal proceedings. Hence, the following order:-

O R D E R

- I. Criminal application stands allowed.
- II. The F.I.R. vide C.R. No. 156 of 2023 dated 20.06.2023 registered with Killari police station, Tq. Ausa, district Latur for the offences punishable under sections 376(2)(n), 452, 294, 392, 427, 109, 323, 506 r.w. 34 of I.P.C. and under Sections 3 and 25 of the Arms Act, 1959 as well as the consequential criminal case bearing R.C.C. No. 7 of 2023

pending before the Judicial Magistrate, First Class, Ausa, District Latur, stands quashed to the extent of this applicant.

(SANJAY A. DESHMUKH, J.)

(SMT. VIBHA KANKANWADI, J.)

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