



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

23 CRIMINAL APPLICATION NO. 4384 OF 2023

Shivaji S/o. Shamrao Golekar,
Age : 44 Years, Occu. : Agri.,
R/o. Tembhi Antarwali,
Tq. Ghansawangi, Dist. Jalna.

.... Applicant

VERSUS

1. The State of Maharashtra,
Through the Police Inspector,
Police Station Tirthpuri,
Tq. Ghansawangi, Dist. Jalna.

2. XYZ

.... Respondents

....
Advocate for Applicant : Mr. Sharad Solanke h/f Mr. Mahesh P. Kale
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. Anand Deshpande (Appointed)

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

Dated : 31st July 2025

PER COURT :-

1. The present application has been filed by invoking the inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr.P.C."), for quashment of the First Information Report (for short, "FIR"), vide C.R. No.0065 of 2023, registered with Tirthpuri Police Station, Tq. Ghansawangi, Dist. Jalna,

and later on, by way of amendment, for quashment of the proceedings in Sessions Case No.37 of 2024, pending before the learned Additional Sessions Judge, Ambad, Dist. Jalna, for the offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code, 1860 (for short, "IPC").

2. Heard learned Advocate Mr. Sharad Solanke holding for learned Advocate Mr. Mahesh P. Kale, for the applicant, learned APP for respondent No.1-State and learned Advocate appointed for respondent No.2.

3. Learned Advocate appearing for the applicant has taken us through the entire charge-sheet. The prosecutrix has lodged the said FIR on 01.11.2023 and it is submitted on behalf of the applicant that the FIR has been lodged after long delay of more than 20 years. Except the FIR and the statement of the prosecutrix as well as her mother, there is nothing. He relies on the decision of the Hon'ble Supreme Court in the case of ***Suresh Garodia Vs. The State of Assam and Another, [Criminal Appeal No.185 of 2024 (Arising out of SLP(Crl.) No.9142 of 2022), Decided on January 09, 2024]***, wherein it has been held that when the case was lodged after 34 years and that too on the basis of a bald statement that the prosecutrix was a

minor at the time of commission of offence with no explanation whatsoever given in the FIR as to why the prosecutrix was keeping silence for a long period of 34 years, the proceedings came to be quashed and set-aside.

4. Per contra, learned APP for the State and learned Advocate appearing for respondent No.2 strongly objected the application and submitted that the mental trauma to the prosecutrix should be considered. She has stated that when she was around 10 to 13 years of age, the present applicant, who is in relation to the family, used to visit her house and by taking disadvantage of his relationship, he used to have sexual intercourse with the minor prosecutrix. It has affected her mental health and ultimately, she could get courage because of the mother and maternal aunt. In the statement of mother, she states that when she started looking after a suitable bridegroom for the prosecutrix, the prosecutrix was refusing and used to cry and therefore, she took her in confidence and then, the entire incident was narrated by the prosecutrix. Therefore, taking into consideration these facts, it appears that there is an explanation tried to be given by the prosecutrix for delay in lodging the FIR. Whether the explanation given is sufficient or not would be then the matter of trial and therefore, let there be trial in the present matter.

5. Here, it is to be noted that the prosecutrix, who is now a 30 years old girl, states that when she was 10 to 20 years of age, the applicant, who is her relative, used to come to her house. Sometimes, by keeping her in the house, when her mother used to go to attend the Bhajan at night time, the applicant used to have sexual intercourse with her. He used to threaten her and then, she states that for about three years, he was doing that sometimes in the house, sometimes in his agricultural land or sometimes where he used to take tuition. She states that since she was too young and was unable to understand, she had not disclosed this fact to anybody, but she used to be under fear and was unable to sleep. She then states that, in 2003, without informing to anything to her mother, she went to the place of her maternal aunt at Mumbai and started residing there. She then states that, though about 15 to 16 years have elapsed, she is unable to sleep properly and her mental condition is worse and therefore, she then disclosed the fact to her aunt as well as her mother and then, the FIR has been lodged.

6. Within three days from lodging of the FIR, supplementary statement of the prosecutrix has been recorded and she then states that she had not disclosed the fact to her aunt, but it was disclosed to her mother. Thus, it is to be noted now that there is

a huge delay in lodging the FIR. Of course, we are aware that the delay cannot be the only ground on which either the FIR or the proceedings can be quashed and set-aside. But, here, except the bald statement of the prosecutrix, there is nothing. She states that in 2003, without informing her mother, she went to Mumbai. At least thereafter, when the applicant was not meeting her, she ought to have taken courage to disclose the fact to her maternal aunt. If her mental condition was not proper, it could have been noticed by the family members much more earlier than the date of FIR. She has not stated that since the marriage proposals had started and she was refusing them, then the mother had taken her in confidence and she had disclosed the fact to mother. Therefore, even on that background also, there is no support. Mental condition cannot be the sufficient or reasonable ground for the delay.

7. The statements of other witnesses are in the form of hearsay and therefore, it would be an abuse of process of law if the applicant is asked to face the trial. Therefore, we should exercise our powers under Section 482 of Cr.P.C. to quash the FIR and proceedings. The application deserves to be allowed. Hence, we pass following order.

ORDER

- I) The application stands allowed.
- II) The First Information Report vide C.R. No.0065 of 2023, registered with Tirthpuri Police Station, Tq. Ghansawangi, Dist. Jalna, and the proceedings in Sessions Case No.37 of 2024, pending before the learned Additional Sessions Judge, Ambad, Dist. Jalna, for the offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code, 1860 stands quashed and set-aside as against the present applicant.
- III) Fees of the appointed Advocate is quantified at Rs.8,000/- (Rupees Eight Thousand Only), to be paid by the High Court Legal Services Sub Committee, Aurangabad.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE