



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION [APL] NO.690 OF 2022

Sumit s/o Dayaram Shende,
Aged about 35 years,
Occupation : Self Business,
R/o. Shivshakti Nagar, Wanjari Layout,
Post Uppalwadi, Plot No.43,
Nagpur-440 026.

..

Applicant

.. Versus ..

1. State of Maharashtra,
Through it's Police Station Officer,
Police Station, Yashodhara Nagar,
Nagpur.
2. XYZ (Victim) in Crime No.249/19
Through its Police Station Officer,
Police Station, Yashodhar Nagar,
Nagpur.

..

Respondents

.....
Ms. Smita Sarode-Singalkar, Advocate for Applicant.
Mr. Ganesh Umale, APP for Respondent No.1/State.
Ms. Singh, Advocate h/f Ms. Priyanka Arbat (Awathale), Advocate for
Respondent No.2.

.....

CORAM : ANIL S. KILOR AND
PRAVIN S. PATIL, JJ.

DATED : APRIL 17, 2025.

ORAL JUDGMENT [Per : Pravin S. Patil, J.]

1. **Rule.** Rule is made returnable forthwith. By consent of the learned Counsel for the parties, the matter is taken up for final disposal.

2. By this application, applicant is seeking to challenge the Chargesheet bearing No.64/2020 dated 04.06.2020 arising out of FIR No.249/2019 registered under Sections 306, 506 and 376 (2) (n) of the Indian Penal Code with Police Station Yashodhara Nagar, Nagpur and consequential proceeding of Sessions Trial No.127/2022, which is now pending before the Sessions Court at Nagpur.

3. In short, the case of the prosecution is that the respondent no.2 on 18.04.2019 lodged a police complaint to the Police Station, Bhopal (Madhya Pradesh) alleging that the present applicant by giving false promise of marriage called her at Nagpur on 27.11.2017 and established physical relations with her. Likewise on 17.02.2018 again she was called in 'Paradise Hotel' and established physical relations with her. It is stated by her that her marriage was solemnized with one Yetendra on March, 2019 and she narrated all the incidence to her husband. Accordingly with her husband, she approached to the Police Station and lodged complaint.

4. It is stated that as the alleged offence has been taken place at Nagpur, the complaint was transferred to the Police Station, Yashodhara Nagar, Nagpur. After the registration of the offence against the applicant, investigation machinery was set into motion and collected relevant data and by recording the statement of relevant witnesses, chargesheet came to be filed in the matter on 04.06.2020 vide Chargesheet No.64/2020.

5. Applicant challenged the registration of offence and chargesheet stating that, non-applicant no.2, in her earlier round of litigation filed at Bhopal (Madhya Pradesh) failed to prove any allegation against applicant and, therefore, with an ulterior motive to recover outstanding amount from him, the false complaint with certain improvisation came to be lodged against him.

6. Learned APP strongly opposed the application by stating that upon registration of the offence, the investigating officer had conducted the investigation and collected the material which *prima facie* shows that offence is made out against the applicant, hence it is not a fit case for quashing of chargesheet.

7. The respondent no.2 opposed the application and stated that all the allegations made against the applicant are true and correct. She

further stated that under the false promise of marriage, applicant has established physical relations with her and, therefore, offence under Section 376 (2)(n), 506 of the Indian Penal Code attracted in the matter.

8. After considering the rival submission of both the parties, with the assistance of the Advocates appearing for respective parties, we have perused the record. It is clear from the record that the present respondent no.2, before lodging the police complaint against the applicant on 18.04.2019, had lodged the complaint dated 02.01.2019 at Police Station, Kohefija. However, the said Police Station did not take cognizance of her complaint, hence, respondent no.2 filed private complaint before the learned Judicial Magistrate, First Class, Bhopal which was registered as Criminal Case No.4014/2022. The learned Magistrate, by his order dated 18.08.2022, rejected the complaint by recording the reasons that the allegations made in the complaint are of civil nature. The said judgment and order of the learned Judicial Magistrate, First Class, Bhopal was confirmed by the learned Additional District Judge, Bhopal in Criminal Revision No.552/2022 by judgment and order dated 01.12.2022.

9. It is pertinent to note that in her complaint dated

02.01.2019, the respondent no.2 has every opportunity to state the facts which she has stated in the present proceeding. Therefore, *prima facie*, there is a reason to believe that complaint dated 18.04.2019 is nothing but after thought only to falsely implicate the applicant in the offence under Section 376 of the Indian Penal Code to settle her personal score.

10. It is also important to note that at one hand, respondent no.2 made allegation that under the wrong promise of marriage, applicant has established physical relations with her at two occasions and in the same breath, respondent no.2 herself stated that in the month of March, 2019 she performed marriage with one Yetendra. Hence, filing of complaint creates doubt about veracity of allegation in the FIR. Hence, there is a reason to believe that only because certain amount was outstanding against the applicant and as there was a failure on her part to get that amount recovered from proceeding initiated at Bhopal, she improved her allegation.

11. It is well settled position of law that in a case, where complaint is found to be filed with an ulterior motive, in that case, this Court owes a duty to look into other attending circumstances emerging from the record and considered the same with due care by

reading the complaint between the lines.

12. Now a days, we have experienced in many cases, once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, then the complainant ensure that FIR/Complaint should be drafted in such a manner which will attract the necessary ingredients to constitute the alleged offence. We find the same approach of complainant in the present matter and, therefore, we have gone through the entire record and thereupon found that the complaint lodged against the applicant is frivolous.

13. From the allegations of the FIR, we are of the opinion that the said allegations made by the respondent no.2 are out an ulterior motive to settle her personal score in the matter. It is further seen from the record that the respondent no.2, at the time of alleged offence, was of the age of 27 to 28 years. Therefore, she could be understood the consequences of such incidence. Not only this, she was a student of Medical College, Bhopal and well understood the effect of physical relations, therefore, only conclusion can be drawn from the facts of the present case is that only because certain amount was outstanding against the applicant which she could not recover, now by this vexatious proceeding, she is trying to make an attempt to settle her

personal score by entangling the applicant in the alleged offence under Section 376 of the Indian Penal Code.

14. Hence, considering the above said peculiar facts and circumstances of the matter, we are of the considered opinion that no case is made out against the applicant and, therefore, the application deserves to be allowed. Hence, we proceed to pass the following order :

O R D E R

- (i) Criminal Application is allowed.
- (ii) The Chargesheet no.64/2020 dated 04.06.2020 arising out of FIR No.249/2019 registered under Section 306, 506 and 376 (2) (n) of the Indian Penal Code with Police Station Yashodhara Nagar, Nagpur and consequently the Session Trial No.127/2022, which is now pending before the Sessions Court at Nagpur, is hereby quashed and set aside.

15. Rule is made absolute in the above terms.

(Pravin S. Patil, J.)

(Anil S. Kilor, J.)