



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APL) NO. 785/2024

with

CRIMINAL APPLICATION (APL) NO. 784/2024

CRIMINAL APPLICATION (APL) NO. 785/2024

Mr. Sandesh s/o. Tanaji Pawar,
aged about 43 yrs., Occ. Unemployed,
R/o. 1106, Lakeside D Wing, Lakeshore
Greens, Palava Phase-2, Khoni Village
Dombivali East, Mumbai - 421204
(Maharashtra State)

...APPLICANT
(Accused)

VERSUS

1. The State of Maharashtra, through
through Police Station Officer, Police
Station Panchpaoli, Nagpur (Maharashtra State)
2. Ankita d/o. Pratap Kurve,
Aged about 37 yrs., Occ. Service,
R/o. Plot No.G-19 Sambodhi Colony
Vaishali Nagar, Panchpaoli,
Nagpur 421204 (Maharashtra State)
(complainant)

NON-APPLICANTS

with

CRIMINAL APPLICATION (APL) NO. 784/2024

Ms. Swati d/o. Tanaji Pawar,
aged about 37 yrs., Occ. Service,
R/o. 1106, Lakeside D Wing, Lakeshore
Greens, Palava Phase-2, Khoni Village
Dombivali East, Mumbai - 421204
(Maharashtra State)

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Nagpur 421204 (Maharashtra State)
(complainant)

NON-APPLICANTS

Ms. Ayushi Dangre, Advocate for applicants.
Mrs. M. Deshmukh, APP for non-applicant No.1/State.
Ms. Priyanka Arbat, Advocate (appointed) for non-applicant No.2.

CORAM : **NITIN B. SURYAWANSHI AND**
PRAVIN S. PATIL, JJ.
DATE : **24.02.2025**

ORAL JUDGMENT : (PER: NITIN B. SURYAWANSHI ,J.)

Heard.

2. By both these applications, applicants seek quashing of First Information Report (“FIR”) bearing Crime No. 88/2024 registered with Police Station Panchpaoli, Nagpur for the offence punishable under Sections 354, 420, 506 read with Section 34 of the Indian Penal Code.

3. Non-applicant No. 2 lodged FIR in question, in short alleging that she was looking for a suitable match and accordingly registered herself on the Jeevan Sathi App. On the said App, she met applicant Sandesh s/o. Tanaji Pawar, who extended a marriage proposal to her, which she accepted. Thereafter, Sandesh along with his sister/applicant Swati daughter of Tanaji Pawar visited the house of non-applicant No.2 at Nagpur on 08.06.2022, and extended the marriage proposal to parents of non-applicant No.2. Following this, the family of non-applicant No.2 traveled to Mumbai to see residential premises of Sandesh. On 28.09.2022, Tilak ceremony took place at the residence of non-applicant No.2 and date of marriage was fixed as 28.11.2022. In December, 2022, Sandesh visited the house of non-

applicant No.2, at that time, nobody was at home, he forcibly held her and kissed her. Non-applicant No.2 opposed the same and called her mother. Thereafter, marriage was postponed at the instance of applicants. On 21.11.2022, Sandesh called her at L.B. Hotel at Sadar. At that hotel, Sandesh forcibly kissed her and pushed her on the bed. As non-applicant No.2 did not like the said conduct, she ran away from the Hotel. Applicants were avoiding to fix the date of marriage on one pretext or the other. Thereafter, Sandesh fixed date of marriage as 26.02.2023. By paying Rs. 50,000/-, marriage hall was booked by non-applicant No.2. Again the said date was postponed by Sandesh.

4. On 20.04.2023, both applicants went to Nagpur and told the family of non-applicant No. 2 that applicant Swati is suffering from a heart ailment and for performing her operation, money is required. Father of non-applicant No.2 gave an amount of Rs. 2,50,000/- to applicants. Immediately, on the next date, marriage form was collected, it was filled and submitted in the Marriage Registrar Office on 21.04.2023. The marriage was scheduled on 01.06.2023. On that date though non-applicant No.2 and her family were present in the Marriage Registrar Office, the applicant did not

turn up. When they called on phone, evasive replies were given by applicants for their absence. On 14.01.2024, Non-applicant No.2 along with her relatives went to the house of applicants. At that time, applicant Swati told that applicant Sandesh would not marry with non-applicant No.2, when the amount of Rs. 2,50,000/- was demanded back, but applicants refused to return the same, hence FIR is lodged.

5. Heard learned counsel for applicants, learned APP for State and learned counsel for non-applicant No.2. Perused the application, grounds raised therein, documents filed along with the application, replies filed by non-applicants and citations relied upon by applicants.

6. Admittedly, as per allegations made in the FIR, marriage between non-applicant No.2 and Sandesh was fixed in a traditional way. Tilak ceremony was also performed. Notice for intended marriage was also given on 21.04.2023, according to which, marriage was scheduled on 01.06.2023. However, marriage could not take place for the reasons best known to the parties.

7. FIR in question is lodged on 10.02.2024 i.e. after almost eight months after the date of intended marriage. From bare reading of the FIR, it is clear that Tilak ceremony was held and marriage was fixed. As the marriage was fixed, Sandesh and non-applicant No.2 being adult, they might have got close to each other. Non-applicant No.2 has not made any allegation that Sandesh used criminal force and outrage her modesty. There is no material on record to show that Sandesh had intention to outrage modesty of non-applicant No.2. Allegations made in the FIR are clearly after thought and they do not make out ingredients of Section 354 of the IPC.

8. In similar facts, in ***Naresh Aneja @ Naresh Kumar Aneja Vs. State of Uttar Pradesh & anr.***, (Criminal Appeal...../2025) arising out of Special Leave Petition (Crl.) No. 1093/2021, decided on 02.01.2025), the Apex Court has observed:-

“10. It is well settled that when considering an application u/s 482 CrPC, the court cannot conduct a mini-trial but instead is to be satisfied that prima facie the offences as alleged are made out. To put it differently, it is to be seen, without undertaking a minute examination of the record, that there is some substance in the allegations made which could meet the threshold of statutory language.

12. *A bear perusal of Section 354, IPC reveals that for it to apply, the offence must be committed against a woman; criminal force must be applied against her; and such application of force must be with the intent to outrage her modesty. [See: Raju Pandurang Mahale v. State of Maharashtra, (2004) 4 SCC 371.*

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13.3 *What flows from the judgments referred is that for an offence of criminal intimidation to be prima facie established, the intention should be clearly visible, and the same is to be established by evidence on record. Granted that at this stage, evidence on record is not the standard to be applied since the trial is underway, but at least the results of the investigation and the material gathered thereunder, which is on record, should disclose somewhat of an offence. The FIR, interim investigation report and the chargesheet, reproduced above, do not disclose any offence having been committed by the appellant herein.”*

9. Applicants’ case is squarely covered by the above observations made by the Apex Court.

10. Since the marriage of Sandesh and non-applicant No.2 was fixed, which subsequently was cancelled, it cannot be said that since beginning, Sandesh had any intention to cheat non-applicant No.2. In absence of ingredients of Section 420 of the IPC spelt out from the

FIR and investigation papers, continuation of the prosecution of Sandesh and Swati sister of Sandesh is an abuse of process of law.

11. It is the case of non-applicant No.2 that an amount of Rs. 2,50,000/- was borrowed by the applicants from her father and after refusal to marry her, the applicants refused to pay back that amount. This incident has taken place on 14.01.2023. Non-applicant No. 2 has lodged FIR after a period of more than one month. This clearly shows that after thought, allegations are made by non-applicant No. 2. Even if these allegations of non-applicant No.2 of borrowing money from her are accepted as it is, it cannot be said that merely because the marriage was broken or Sandesh did not marry with non-applicant No.2, since beginning and at the time of alleged borrowing of Rs.2,50,000/-, applicants had any intention to cheat non-applicant No.2. No prudent man in given set of circumstances, can ever reach to the conclusion that in the present case offence as alleged by non-applicant No.2 has taken place.

12. It appears that because of cancellation of marriage with a view to settle personal scores an after thought, FIR is lodged by non-applicant No.2 against applicants which is nothing but an abuse of the

process of Court and Law. No ingredients of Section 354 or 420 are made out in the FIR or in the material collected during the course of investigation.

13. In the result, both applications are allowed. FIR bearing Crime No. 88/2024 registered with Police Station Panchpaoli, Nagpur for the offence punishable under Sections 354, 420, 506 read with Section 34 of the Indian Penal Code against applicants is hereby quashed and set aside.

14. Applications stand disposed of in above terms.

(PRAVIN S. PATIL, J.)

(NITIN B. SURYAWANSHI, J.)

Gohane