



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

Criminal Application (APL) No. 575 of 2019

Prashant S/o Suresh Jadhav, Aged
about 50 years, Occ. Service, R/o
Police Gymkhana, Room No.12, Civil
Lines, Nagpur

... Applicant

// VERSUS //

1. State of Maharashtra,
through Police Station Officer,
Police Station Wadi, District Nagpur
2. XYZ in Crime No. 74 of 2019,
Police Station Officer, Police Station
Wadi, Nagpur

... Non-applicants

Shri Sameer P. Sonwane, Advocate for the applicant.
Shri S.S.Doifode, APP for the non-applicant/State.
Shri S.Y.Rawate, Advocate for the non-applicant no.2.

**CORAM : ANIL S. KILOR &
PRAVIN S. PATIL, JJ.**

DATED : 1st APRIL, 2025.

ORAL JUDGMENT : (PER : PRAVIN S. PATIL, J.)

Rule. Rule is made returnable forthwith. By consent of the learned counsel for the parties, the matter is taken for final disposal.

2. By this application filed under Section 482 of the Code of Criminal Procedure, applicant is challenging the charge-sheet no. 67 of 2019 registered under sections 3(1)(xii), 2(v) of Scheduled Caste and

Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 376(2), 376(2)(n), 376(2)(a), 323 and 506 of Indian Penal Code.

3. In short, the case of prosecution is that in the year 2017 the applicant was working as Police Inspector (Crime) at Police Station Wadi Nagpur. On 31st December 2017 informant had been to the Wadi Police Station regarding one missing of case and that time she came in contact with the applicant. Thereafter friendship was developed and same was converted into their love affair. It is further case of prosecution that in the month of February 2018, applicant has called the informant at his residential quarter at Defence colony along with biodata as he has given assurance to help her for getting job. At that time applicant has proposed the informant for marriage. The informant has given her consent and stayed at night in the house of applicant. It is further case of prosecution that thereafter number of times there was a physical relationships between applicant and informant on the pretext of performing marriage with the informant by applicant.

4. In October 2018 applicant came to know parents of informant are in search of groom for her marriage. At that time applicant

contacted informant and stated that she should not marry with any other person because he is ready and assure to perform marriage with her.

5. Accordingly, applicant met with the relatives of informant and assured them that he is going to marry with the informant on 15th November 2018. In pursuance of that assurance informant brought all her bags and baggages to the house of applicant and started residing with him since 11th November 2018.

6. As per the prosecution case, applicant stated to the informant that for some reason he could not perform the marriage on 15th November 2018 and as he wants to meet with his family members. Accordingly, on 22nd November 2018 applicant took the informant at Kolhapur and stayed in a hotel. During that stay there was again physical relations between them. Both have returned back on 24th November 2018. But after returned back, applicant started ignoring the informant.

7. On 9th December 2018 applicant came at Nagpur informed the informant that he has performed the operation of family planning. On that count there was quarrel between them. At that time applicant has

beaten the informant with the service belt and forcibly established the physical relations with the informant against her will and consent.

8. On 25th December 2018, applicant asked the informant to shift all her articles baggage from his house because his wife is coming at his residential house. Accordingly, she removed her bags and baggages. On next day informant found that some educational documents remained in the house of applicant. Informant accordingly went to collect the same from the house of applicant. At that time wife of applicant was present, and there was quarrel between informant, wife of applicant and applicant on account of relationships between applicant and informant.

9. In the backdrop of above said factual position the informant on 27th February 2019 lodged a police report to the Police Station Wadi. On her complaint offence was registered under sections 3(1)(xii), 2(v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Sections 376(2), 376(2)(n), 376(2)(a), 323 and 506 of Indian Penal Code.

10. During the pendency of present application, the investigation was completed and charge-sheet came to be filed. Along with charge-sheet entire material was placed on record.

11. Applicant while challenging the charge-sheet raised the submission that entire story narrated by the informant in her report dated 27th February 2019 is false. The said report is concocted and afterthought. He stated that informant is blackmailing to the applicant. He further stated that he had filed complaint against the informant to the higher police authorities for enquiry against informant but unfortunately proper investigation was not conducted in the matter.

12. The applicant further stated that informant has lodged identical complaint against various persons, of the same nature. As such she is having knowledge of law and she attracts not only the civilians but also police officers like applicant. As such, on the basis of this submission, he prayed to quash and set aside the charge-sheet No. 67 of 2019 registered against him at Police Station Wadi.

13. Learned Additional Public Prosecutor has pointed out from the charge-sheet that informant belongs to Scheduled Caste and also

relied upon the CDR and Whatsapp messages between applicant and informant. On the basis of said incriminating evidence available on record, it is the submission of the applicant that quashing of FIR in such matter is not proper and no conclusion could be drawn at this stage on the basis of this document placed on record. If this Hon'ble Court considered all the documents placed on record it will be nothing but a mini trial conducted in the matter and same is not permissible as per the settled principle of law.

14. Non-applicant no.2 in her affidavit reiterated all the statements and allegations made by her in the complaint. She has specifically pointed out certain Whatsapp Message which are sufficient to demonstrate that *prima facie* applicant has given promise of marriage to informant and on that account there was a sexual intercourse between them. As such, Investigation Officer by conducting proper investigation registered offence against applicant in the matter. Hence, once charge-sheet is filed, it is not desirable to invoke inherent jurisdiction by this Court in the matter.

15. We have perused the record and considered the submissions of both the parties.

16. It is settled principle of law that prayer for quashing should be exercised sparingly, with the circumspection and in a rare cases. As per the established proposition of law, while examining each FIR/complaint quashing of which is sought the Court cannot conduct any inquiry as to reliability and genuineness of the allegations made in the First Information Report/complaint. Quashing of complaint/First Information Report should be an exception rather than an ordinarily rule. Normally the criminal proceedings should not be quashed in exercise of powers under Section 482 of Cr.P.C., when after thorough investigation, the charge-sheet has been filed. Furthermore, while considering the application under Section 482 of the Code of Criminal Procedure, the Courts are not required to go into the merits of the allegations, as if conducting the mini trial.

17. In the present case after going through the charge-sheet, it is clear that the prosecution has recorded the statement of independent persons, collected details of applicant, Whatsapp chatting between the

applicant and non-applicant no.2 and call details recording (CDR) and on that basis filed final report in the matter. *Prima facie*, from the perusal of the said documents, it is clear that applicant has given assurance of marriage to the informant and on the basis of false pretext, he has developed physical relations with her.

18. At this stage, it is difficult to draw distinction in this matter whether such physical relations between the applicant and non-applicant no.2 was of consensual or on the false pretext of marriage. In such, case only after conducting the trial appropriate conclusion can be drawn in the matter. We are therefore not inclined to conduct the mini trial to decide the validity of the documents at this stage.

19. Learned counsel for the applicant had relied upon the various judgments of the Hon'ble Supreme Court of India to substantiate his submission that in present case powers under Section 482 of the Code of Criminal Procedure can be invoked and further physical relationship between the applicant and informant were of consensual nature. In support of his submission, he relied upon Dr. Dhruvaram Murlidhar Sonar Vs. State of Maharashtra and others reported in 2019(18) SCC 191,

Pramod Suryabhan Pawar Vs. State of Maharashtra and another reported in 2019(9) SCC 608, Dashrath Sahu Vs. State of Chhattisgrah reported in 2023 SCC Online SC 1775, Shajahan and others Vs. State of Kerala and another reported in 2007 12 SCC 96 and Iqbar @ Alias Bala and others Vs. State of Uttar Pradesh and others reported in 2023 (8) SCC 734.

20. The proposition of law laid down by the Hon'ble Supreme Court in the above case is not at all disputed. However, it is depend upon the case to case for exercising the powers under Section 482 of the Code of Criminal Procedure. As we have already held that after the investigation, the material evidence is collected by the prosecution to *prima facie* show the complicity of applicant, submission made by applicant cannot be accepted as a gospel truth. Considering the same at this stage it would amount to conduct mini-trial in the matter, hence, we are of the considered opinion that it is not a fit case to invoke inherent power under Section 482 of the Code of Criminal Procedure.

21. The Hon'ble Supreme Court of India in the case of State of Orrisa Vs. Pratima Behera in (Criminal Appeal No. 3175 of 2024 arising SLP (Cri.) No. 10262 of 2024), considering the powers of quashing

under Section 482 of the Code of Criminal Procedure, it is laid down the law that quashing of proceeding after filing of charge-sheet normally should not be exercised particularly when after a thorough investigation, the charge-sheet has been filed. Considering the well settled principle of law and the facts of the present case, we are of the considered opinion that it is not a fit case to exercise the powers to quash and set aside the criminal proceedings against the applicant. Hence, for the aforesaid reasons, the application is dismissed.

Rule is discharged in aforesaid terms. No order as to costs.

[PRAVIN S. PATIL, J.]

[ANIL S. KILOR, J.]