



Judgment

apl254.24

1

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

CRIMINAL APPLICATION (APL) NO. 254/2024.

Shri Tomar s/o Subhashcandra Gedam,
Aged 30 years, Occu - Service,
resident of Plot No.21, Laxmi Nagar,
Dhartimurti Road, Katol, Tah. Katol,
District Nagpur.

... **APPLICANT.**

VERSUS

1.The State of Maharashtra,
through it's Police Station, Katol,
Tah. Katol, District Nagpur.

2.Smt.Sangita Sanjayrao Dhole
Aged : 49 years, Occupation – Service,
Resident of Panchwati, Katol,
Tahsil Katol, District Nagpur.

... **NON-APPLICANTS.**

Mr. D.R. Rupnarayan, Advocate for the Applicant.
Ms S. Haider, A.P.P. for Non-applicant No.1.
Mr. S.M. Wandre, Advocate for Non-applicant No.2.

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

DATE : MARCH 05, 2025.

Rgd.

ORAL JUDGMENT (Per Nitin B. Suryawanshi, J.) :

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

2. Non-applicant no.2 who is working in the office of Rural Water Supply, Sub-Division at Katol as Junior Clerk has lodged first information report against the applicant, who is serving as a Junior Engineer in the same office, alleging that the applicant repeatedly asked for the same information about the official work, though the same is given to him. On 04.01.2024 at about 2 p.m., while non-applicant no.2 was working, he has taken her video shooting, and when he was confronted by non-applicant no.2, he threatened to see her. While non-applicant no.2 was going out of the office, he again took her video shooting. She therefore, informed the said fact to her superior officer Shri Bawne. On 08.01.2024 and 12.01.2024 while non-applicant no.2 was doing her official work in the office, applicant had again taken her video shooting for half an hour. Accordingly non-applicant no.2 lodged a complaint in that behalf on 15.01.2024 with

Rgd.

the Chief Executive Officer, Zilla Parishad, Nagpur. On 16.01.2024, when she went to the office, applicant forwarded a message on office group that office clerk does not come on duty in time, and threatened to suspend her. She therefore, lodged first information report against the applicant on 16.01.2024.

3. On completion of investigation, charge-sheet came to be filed in the Court of the Judicial Magistrate First Class, Katol, District Nagpur against the applicant under Sections 354-D and 506 of the Indian Penal Code and the case is numbered as R.C.C. No.259/2024. The applicant seeks quashing of the same.

4. Heard learned Counsel for the applicant, learned A.P.P. for non-applicant no.1/State and learned Counsel for non-applicant no.2. Perused the documents placed on record and charge-sheet.

5. In the first information report, only allegation leveled against the applicant is that he used to take video shooting of non-applicant no.2, due to which she was facing mental harassment. During investigation statements of some of the witnesses/office

colleagues of applicant and non-applicant no.2 were recorded, wherein they have stated that applicant was seen video-shooting non-applicant no.2 prior to 10 days of recording of their statement. Their statements are recorded on 17.01.2024. It is pertinent to note that cell phone of applicant was seized on 20.01.2024, however, no photo or video of non-applicant no.2 was found in the gallery of the said cell phone.

6. On enquiry conducted by Vishaka Cell of Zilla Parishad, Nagpur a report is submitted on 29.02.2024, wherein it is stated that though non-applicant no.2 has alleged that applicant obtained her video shooting and photos, no video shooting or photos are placed on record. Non-applicant no.2 has categorically stated in writing before the Committee that applicant has not sexually harassed her.

7. Taking into consideration the allegations made in the first information report and the material collected during investigation, it is clear that no ingredients to constitute an offence under Section 354-D of the Indian Penal Code are made out by the

prosecution against applicant. There is absolutely no iota of material showing that applicant has stalked non-applicant no.2. It appears that as the applicant has circulated message in respect of late coming of non-applicant no.2, he has been implicated in the present crime to pressurize him.

8. The case of applicant is covered by guideline nos. 1, 4 and 7 of the judgment of Apex Court in case of **State of Haryana .vrs. Bhajanlal (1992 Supp [1] SCC 335)**. For these reasons, continuation of prosecution against applicant would be an abuse of the process of law. In the result, Criminal Application is allowed.

Criminal proceeding bearing R.C.C.No.259/2024 pending in the Court of Judicial Magistrate First Class, Katol, District Nagpur registered on the basis of Crime No.26/2024 with Katol Police Station, District Nagpur for offence under Sections 354-D and 506 of the Indian Penal Code is hereby quashed and set aside.

9. Rule is made absolute in the aforesaid terms.

JUDGE

JUDGE