



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

CRIMINAL APPLICATION NO.1189 OF 2019

Nishikant @ Raju s/o Pandurang Pandit,
aged about 50 years, Occ. Labour, R/o
Maheshwaram Residency, Gajananpeth,
Akola, tq. and Dist. Akola.

... APPLICANT

VERSUS

1. State of Maharashtra, through Police
Station Officer, Civil Lines, Akola, Tq.
And Dist. Akola.
2. XYZ in Crime No. 316 of 2019, Civil
Lines Police Station, Akola

... NON-APPLICANT(S).

Shri V.R. Deshpande, Advocate for the applicant.
Ms Haider, Addl. Public Prosecutor for the State.
Shri S.K. Wankhede, Advocate for non-applicant no.2.

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATE : 22.04.2025.

ORAL JUDGMENT : (Per : Anil S. Kilor, J.)

Heard. **RULE.** Rule made returnable forthwith.

2. The matter is taken up for final disposal by consent of both the parties.
3. The charge-sheet no.171/2024 arising out of Crime No.316 of 2019 registered with the Civil Lines Police Station, District Akola for the offence punishable under Sections 376(2)(n), 377 and 506 of the Indian Penal Code, is sought to be quashed and set aside by way of present application filed under Section 482 of the Code of Criminal Procedure ('CrPC').
4. Having gone through the charge-sheet, it is evident that the complainant and the applicant came in contact first time in the year 2005 and their relations converted into love relationship from 2007. Allegedly the applicant sexually abused the complainant and committed rape repeatedly.
5. If the allegations in the FIR are taken on its face value, it is evident that the complainant admits that it was the love relationship. It is further evident that on the date of lodging of report, the applicant was 43 years of age and she had two children. It is further apparent on the face of record that, her elder daughter got married and because of death of her husband she stayed with the complainant.
6. There is no whisper about any false promise or any

misrepresentation by the applicant while establishing the physical relations with the complainant.

7. The FIR came to be lodged on 03.07.2019, and if the period of their relationship is taken into consideration, it is more than 12 years. Thus, it is apparent that it was with the consent of the complainant and therefore, since it is consensual relations, Section 376(2)(n) of the IPC will not attract against the present applicant.

8. Hence, even if the allegations made in the FIR are taken on its face value, no offence constitutes as alleged. In that view of the matter, we are of the opinion that, continuation of prosecution against the present applicant would be an abuse of the process of law.

9. In the circumstances, despite learned Addl.P.P. and learned Counsel for the non-applicant no.2 strongly opposed the application, we are of the firm view that, the application needs to be allowed. Accordingly, we proceed to pass the following order :

ORDER

- (a) The application is allowed.
- (b) The Charge-sheet No.171/2024 arising out of Crime No. 316 of 2019 registered with the Civil Lines Police Station, Akola for the offence punishable under Sections 376(2)(n), 377 and 506 of

the Indian Penal Code and proceedings of Sessions Case No.126 of 2024 pending on the file of the learned District and Sessions Judge-2, Akola, are hereby quash and set aside.

10. Rule is made absolute accordingly.

(PRAVIN S. PATIL, J.)

(ANIL S. KILOR, J.)

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