



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

CRIMINAL APPLICATION (APL) NO. 938 OF 2024

Pranay Rajendra Gharde,
Aged about : 30 Yrs., Occ.: Private,
R/o. Plot No.144, Guru Shankar
Nagar, Near Anand High School,
Footi Kothi Road, Sudama Nagar,
Indore, M.P.452009

...APPLICANT

// V E R S U S //

1. **State of Maharashtra,**
Through Police Station Officer,
Police Station Pardi,
Tq. and District Nagpur

2. **XYZ,**
Crime No. 272/2024,
Police Station Officer,
Police Station Pardi,
Nagpur

RESPONDENTS

Mr Mangesh D. Raut, Advocate for the applicant
Mr S. S. Doifode, APP for respondent No. 1/State
Mr Piyush Rewatkar, Advocate for respondent No.2

CORAM : ANIL S. KILOR AND PRAVIN S. PATIL, JJ.
DATED : APRIL 21, 2025.

ORAL JUDGMENT : (PER : ANIL S. KILOR, J.)

1. Heard.

2. **RULE.** Rule made returnable forthwith. Taken up for final disposal with the consent of learned counsel for the parties.

3. The FIR which is sought to be quashed and set aside, namely FIR No.272 of 2024 for the offences punishable under Sections 376 (2)(n), 420 and 506 of the Indian Penal Code ("IPC", for short), registered with Pardi Police Station, District Nagpur City, discloses that the informant was 35 years of age when the complaint was lodged and it is alleged that in the month of January 2020, the applicant met with her and he took her to a hotel situated at Pardi Square, Nagpur and there he gave a promise of marriage to the respondent No.2 and established physical relations with her. It is alleged that, thereafter, on many occasions she allowed the applicant to establish physical relations with her as he threatened to defame her in the society. It is further alleged that she paid Rs.4,00,000/- to Rs.4,50,000/- to the applicant on many occasions, which he did not return back. Accordingly, the offence came to be registered against the applicant.

4. In the present matter, after the investigation, the chargesheet has been filed and from the chargesheet, it is evident that on the date of the first instance of entering into physical relations with the applicant, she was married and till date her first marriage is still in existence. Even if it is accepted that the applicant forced her to file a divorce petition, the said divorce petition is pending and not yet decided.

5. Thus, considering the age of the respondent No.2 and the fact that the marriage of respondent No.2 is in existence, the allegations that the applicant promised her to marry her cannot be accepted and it appears that for unleashing personal vendetta the complaint came to be lodged against the applicant.

6. From the allegations made in the FIR it can be said that there were consensual relations between the applicant and respondent No.2. As we have already observed that she is married, the alleged promise of marriage by the applicant cannot be considered as misrepresentation to say that such consent was given

by the respondent No.2 under some misrepresentation or under some false promise. In that view of the matter, since we are of the opinion that there was a consensual relations between the applicant and respondent No.2, Section 376(2)(n) of the IPC would not attract in this case.

7. As far as Section 420 is concerned, there are no allegations of cheating. It is stated in the complaint that on various occasions the applicant requested for financial help and respondent No.2 paid Rs.4,00,000/- to Rs.4,50,000/- to the applicant. It is stated that this amount was paid under the pretext that the applicant would marry respondent No.2. As we have already observed that the respondent No.2 is a married woman. Thus, in absence of any allegation of cheating,s even Section 420 of the IPC would not attract.

8. Similarly, as far as offence under Section 506 of the IPC is concerned, there are no allegations made in the FIR or there is no material available in the chargesheet to show that this offence

would attract against the applicant. In the circumstances, as no case is made out as alleged, it would not be just and fair to compel the applicant to face the trial. In the circumstances, the criminal application is allowed.

9. The Chargesheet No. 60 of 2024 dated 04.07.2024 arising out of FIR No. 272 of 2024 dated 06.05.2024 for the offences punishable under Sections 376(2)(n), 420 and 506 of the Indian Penal Code registered at Police Station Pardi, Nagpur City, is hereby quashed and set aside.

Rule accordingly.

Pending application, if any, also stands disposed of.

[PRAVIN S. PATIL, J]

[ANIL S. KILOR, J.]