



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL REVISION APPLICATION NO. 244 OF 2024

Ganesh s/o Ramdas Akolkar
Age : 42 years, Occ. Service,
R/o. Flat No. C-1, Gangotri Residency,
Tapowan Road, Ahmednagar,
Taluka and District Ahmednagar.
At present R/o. S.R.P.Ground No.7,
565 Quarter, Room No. 85/6, Daund,
District Pune.

... Applicant
[Orig. Accused No.1]

Versus

The State of Maharashtra
Through Investigation Officer,
Tofkhana Police Station, Ahmednagar,
District Ahmednagar.

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Mr. N. B. Narwade, Advocate for the Revision Petitioner.
Mr. S. M. Ganachari, APP for the Respondent-State.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 02.02.2026

Pronounced on : 04.02.2026

ORDER :

1. Revision petitioner assails order dated 13.04.2023 passed on Application Exhibit 5 in Special Case No. 294 of 2017 seeking discharge under Section 227 of Cr.P.C. from offence punishable under section 376, 417, 504, 506 r/w 34 of IPC.

2. Learned counsel for revision petitioner would submit that, there is false implication. Prosecutrix was major by age. That, initially there was friendship which further developed into love relation and it is reported by prosecutrix herself to that extent. Thus, according to him, there was long standing love relation. That, subsequently when relations between them became strained after some incidence dated 09.06.2017, for the first time allegations are raised in the FIR that under the pretext of false promise of marriage, accused maintained physical relation with her and he did not keep his promise. It is further pointed out that, informant prosecutrix had complete knowledge of the acts and deeds she had indulged into. Relations were purely consensual. Allegations of physical intimacy against wish were apparently false and out of annoyance. He pointed out that, even there was no complaint till prosecutrix allegedly conceived and even after there was termination of pregnancy. Therefore, it is his submission that, whatever relations developed between informant and revision petitioner were consensual and there was no fraud or deception played on her. Lastly he submitted that, even otherwise informant prosecutrix allegedly committed suicide and now she being no more, even very prosecution against revision petitioner fails. For all above reasons, by relying on the judgment of the Hon'ble Apex

Court in the case of *Pramod Suryabhan Pawar v. The State of Maharashtra and Another*, reported in AIR 2019 SC 4010; AIR OnLine 2019 SC 904, he prays to discharge the accused.

3. Learned APP opposed on the ground that there are serious accusations of maintaining sexual relations under the pretext of promise of marriage which were false since inception. He pointed out that, informant has categorically stated that, when she asked him about his marital status, he allegedly told her that he was unmarried, however he later on turned out to be father of two children. Thus, according to learned APP, fraud and deception has been played in gaining trust of the victim for sexually exploiting her. As regards to death of prosecutrix is concerned, he submits that there is no dispute, but still according to him, matter would not get abated and prosecution would still survive.

4. Here, revision petitioner is arraigned as accused in crime no. 225 of 2017 registered with Tofkhand Police Station, Ahmednagar for commission of offence under Sections 376, 313, 504, 506 of IPC and under the provisions of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 2009 (for short, "SCST Act"). His application for discharge has been partly allowed by learned

Additional Sessions Judge, Ahmednagar by discharging him from charges under the provision of the SCST Act. However, as regards to remaining offences of 376, 417, 504, 506 r/w 34 of IPC are concerned, prayers for discharge are turned down and hence instant revision.

5. Before advertng to the merits of the case, it would be apt to give a brief account of the settled legal precedents to be borne in mind while entertaining application under Section 227 of Cr.P.C. Few amongst them which could be named are *State of Bihar v. Ramesh Singh* (1977) 4 SCC 39 ; *Union of India v. Prafulla Kumar Samal & Another* (1979) 3 SCC 4 ; *R.S. Nayak v. A.R. Antulay & Another* (1986) 2 SCC 716; *Sajjan Kumar v. Central Bureau of Investigation* (2010) 9 SCC 368 ; *Amit Kapoor v. Ramesh Chandra & Another* (2012) 9 SCC 460 and recent judgment in the case of *Asim Shariff v. National Investigating Agency* (2019) 7 SCC 148, *Ram Prakash Chadha v. State of Uttar Pradesh* (2024) 10 SCC 651.

The ratio that is culled out is that, while dealing with an application under Section 227 of Cr.P.C., strong suspicion against the accused cannot take the place of proof of his guilt at the conclusion of the trial. But at the initial stage, if there is a strong suspicion which

leads the court to think that there is ground for presuming that the accused has committed an offence, then it is not open to the court to say that there is no sufficient ground for proceeding against the accused. The test to determine a *prima facie* case would naturally depend upon the facts of each case and it is difficult to lay down a rule of universal application. Where the material placed before the Court disclose grave suspicion against the accused which has not been properly explained, the court will be fully justified in framing a charge and proceeding with the trial. By and large however, if two views are equally possible and the Judge is satisfied that the evidence produced before him while giving rise to some suspicion but not grave suspicion against the accused, he will be fully within his right to discharge the accused.

6. Keeping in mind the above settled legal position, perused the chargesheet comprising of FIR dated 05.07.2017 registered at Tofkhana Police Station, Ahmednagar. On going through the FIR, it is revealed that prosecutrix, who gave her age as 21 years on 04.07.2017, having lost her parents, was all alone. According to her, she had friends in police headquarter and was therefore regularly visiting it. She claims that, there, she got acquainted with present revision petitioner and she further stated that, their acquaintance

grew into friendship and further blossomed into love affair. She reported that, realizing her to be all alone, he suggested her to stay at his friend's place since 24.12.2016. According to her, on 26.12.2016 revision petitioner came to her house, tried to become intimate and then she claims to have asked him about his marital status, upon which he allegedly told her that he was unmarried, and then she claims that against her wish he maintained physical relation with her. She further stated that, thereafter time to time in her house there were physical relations. Again, at his place in February 2017 she alleged that against her wish, he maintained physical relation with her and then she developed signs of pregnancy and later her pregnancy was confirmed to be three months old. Thereafter she claims to have asked revision petitioner about marriage but he allegedly disclosed her that he is already married and has two children. Then she claims to have realized that, in spite of being married, he had maintained relations with her. She further stated that, still she asked him to marry her assuring that she would not become an obstacle in his married life, upon which he allegedly agreed but first insisted her to undergo abortion and accordingly, she underwent the same in April 2017. Finally, according to her, on 28.04.2017 he started avoiding her. Then in June 2017 he took her to his house and she claims to be pressurized and beaten and when she

was about to lodge complaint, there was assurance of amicable settlement, and on 07.06.2017 she was offered financial support to which she claims to have agreed. Finally on 09.06.2017 she claims that a notarized document was prepared and without making its contents known to her, her signature and thumb was obtained. Hence the above FIR.

7. From above FIR it is clear that prosecutrix, who was at the time of FIR giving her age as 21 years, and having claimed to have got acquainted and had love relations with revision petitioner in 2016, at that time she seems to be major by age. She has specifically reported that, during his initial advances and intimacy, she asked him about his marital status, and she reported that he disclosed her that he was single. Subsequently, after conception and pregnancy she allegedly claimed to have learnt from revision petitioner that he was already married. All this seems to have happened in April 2017 and she claimed to have been induced to undergo medical termination of pregnancy and then there was said to be avoidance. Thus, there is material suggesting suppression of marital status while maintaining physical intimacy. There are allegations of false promise of marriage. Veracity of all such material can be gone into only in a trial.

8. Though indisputably and unfortunately prosecutrix had ended up her life, still matter would not get abated as put forth by learned counsel for the revision petitioner. In the considered opinion of this Court, prosecution can still continue on the available evidence which comprises of testimonies of medical experts, scientific and medical evidence and other witnesses. There are allegations of forceful termination of pregnancy. All such accusations cannot be left unattended merely because prosecutrix committed suicide. Here, this Court is only called upon to exercise revisionary powers for discharge under Section 227 of Cr.P.C. There is indeed *prima facie* material to proceed to frame charge and trial if prosecution intends to do so. Taking into account the nature of accusations and availability of *prima facie* material, this Court does not find it a fit case to discharge the accused as prayed.

9. In the case of ***Pramod Suryabhan Pawar*** (supra) which is relied, there was only FIR for commission of offence under Sections 376, 417, 504, 506(2) of IPC and provisions of the SCST Act. Here, there is charge sheet upon investigation. Therefore, said citation does not come to the rescue of revision petitioner. No case being made out for discharge under Section 227 of Cr.P.C., the following order is passed :

ORDER

The Criminal Revision Application is dismissed.

[ABHAY S. WAGHWASE, J.]

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