



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

CRIMINAL APPLICATION (APL) NO. 672 OF 2024

1. Abdul Arif s/o Abdul Shahid
Aged about : 46 Years; Occu : Labour;
2. Abdul Sakib s/o Abdul Arif
Aged about : 26 Years, Occu : Labour;

R/o Majidiya Plot, Akot, Tahsil Akot, District
Akola.

Presently residing at Bhagatwadi, Galli
No.4, Old City, Akola, Tahsil and District
Akola.

... APPLICANTS

VERSUS

1. State of Maharashtra
through its Police Station Officer, Police
Station, Akot, District Akola.
2. XYZ/Victim
Crime No. 84/2023
Police Station Officer, Police Station, Akot,
District Akola.

... NON APPLICANTS

Mr. N. R. Tekade, Advocate for Applicants.
Ms. Soniya Thakur, APP for Non-applicant No.1.
Ms. J. A. Deshpande, Advocate (appointed) for Non-applicant No.2.

CORAM : PRAVIN S. PATIL, J.
DATE : JANUARY 20, 2026.

ORAL JUDGMENT

. Heard. **Rule.** Rule made returnable forthwith. Heard finally with consent of the learned Counsel for both sides.

2. The Applicants herein have challenged the registration of proceeding bearing Regular Criminal Case No. 49/2024 pending on the file of Judicial Magistrate First Class, Akot and Chargesheet No. 30/2024 dated 23/2/2024 arising out of Crime No. 84/2023 for the offence punishable under Sections 363, 366 and 376 of Indian Penal Code.

3. In short, the case of the prosecution is that, Applicant No.1 is father-in-law of her daughter. She was communicated by the Applicant No.1 that her daughter has given birth to a female child, therefore, on 5/11/2022 she went to the house of Applicant No.1 to see newly born grand-daughter. At that time, by giving threats and by using force, both the Applicants took her at Basmat, District Nanded at one room and kept her in the said room for 35 days and established physical relations with her. On 9/12/2022 she attempted to commit suicide, therefore, the Applicant No.1 left complainant at the house of her relative. The Applicant No.1 threatened her not to state anything to anyone about what he has done with her. At the time, she insisted to take her

to her son and husband, however, the Applicant No.1 took her at Police Station, Akot. She could not told to the police about what had happened with her. She was then sent to Women Rehabilitation Center. On 20/12/2022 her husband brought her at home. Then on 27/12/2022 she sent written complaint through registered post to the Police Station, however, cognizance of the same was not taken, therefore, she filed private complaint against the Applicants before the Magistrate.

4. The learned Magistrate, by order dated 27/2/2023 directed the Investigating Officer, Akot City Police Station to investigate into the allegations of the Non-applicant No.2. After conducting investigation, an offence came to be registered against the present Applicants vide FIR No. 84/2023 dated 5/3/2023 for the offence punishable under Sections 363, 366 and 376 of Indian Penal Code.

5. After registration of offence, the Investigating Officer has conducted investigation and while submitting the chargesheet he has not found sufficient material against the Applicants to register the offence under Sections 363 and 366 of Indian Penal Code. However, as per his investigation, sufficient material has been collected to register the offence under Sections

376(1), 376(f) and 376(n) of IPC against the Applicant No.1. It is also stated that during investigation no material has been found against the Applicant No.2, therefore, he was not chargesheeted in the matter. As such, offences were modified while filing chargesheet in the matter.

6. It is the submission of the Applicants that on perusal of the complaint as well as FIR it will be clear that the Non-applicant No.2 is a matured lady having five sons and one daughter, so also she is having grandson and grand-daughters. It is further seen from the FIR that as her daughter has given a birth to a male child, for that reason she was at her own went to the house of Applicants. It is also clear that she went with the Applicant No.1 and stayed with him for about 35 days. It is pertinent to note that for these 35 days there was no complaint on her part. At that time, she was carrying Rs.50,000/- and golden ornaments with her. For 35 days there were continuous sexual relation between her and the Applicant No.1. It is also stated that the Applicant No.1 himself took her to the Police Station but that time she could not narrate anything to the Police Officers. She was sent to Women Rehabilitation Center and then came back to her house on 20/12/2012. After reaching to her house, for the first time, she made an attempt to lodge police complaint on 27/12/2022. Since the cognizance of

that complaint was not taken, she filed private complaint before the Magistrate. All these facts indicates that there was a delay in lodging complaint and same is not explained. So also, *prima facie*, it is seen to be a concocted story to implicate the Applicants in the offence.

7. It is well settled position of law that if the matured woman, that too, like in the present case, resided with a person who is in relation i.e. father-in-law of her daughter, it can be presumed that physical relations were not established without her consent. Such a long duration of time, *prima facie*, do not constitute the offence under Sections 363, 366, 376 of IPC.

8. It is also pointed out by the Applicants that there is a history of personal enmity against the Applicants. Earlier to this, wife of Applicant No.1 namely, Sau. Shahnaz Parvin Abdul Arif has lodged police complaint against the sons of Respondent No.2 on 10/11/2022 alleging that they are having criminal mindset and threatened her as well as abused her in filthy language. On the basis of that complaint, NCR No. 0582/2022 was registered against them. Hence, out of malice, present complaint is lodged against the present Applicants.

9. Considering the peculiar facts and circumstances of the case, in my opinion, no offence is made out under Sections 376(1), 376(f) and 376(n) of Indian Penal Code. The entire complaint seems to be lodged out of personal grudge and oblique motive, hence, it will not be justified to continue the criminal proceeding against the present Applicants as same would be nothing but the abuse of process of law, and therefore, interference of this Court is necessary. Accordingly, I proceed to pass following order.

ORDER

1. Criminal Application is allowed.
2. Regular Criminal Case No. 49/2024 pending on the file of Judicial Magistrate First Class, Akot and Chargesheet No. 30/2024 dated 23/2/2024 arising out of Crime No. 84/2023 for the offence punishable under Sections 376(1), 376(f) and 376(n) of Indian Penal Code is hereby quashed and set aside.
3. The learned appointed Counsel Ms. J. A. Deshpande appeared in the matter on behalf of Non-applicant No.2. Her professional fees be quantified as per Rules.
4. Rule is made absolute in above terms. No order as to costs.

[PRAVIN S. PATIL, J.]