



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

CRIMINAL APPLICATION (APL) NO. 838 OF 2024

Yogesh Sunil Londhe,
Age-33 years, Occ. - Service,
R/o Quarter no.104-A, Railway
Quarter, Birla Colony, Jatharpeth,
Akola, Tq. & District Akola.

APPLICANT

Versus

1. State of Maharashtra,
Thr. Police Station Officer, Police
Station: Ramdaspath, Tq. & District
Akola.
2. XYZ in crime no.165/2024 registered
with Police Station: Ramdaspath,
Tq. & District Akola.

NON-APPLICANTS

Mr. A. Ananthkrishnan, Advocate for the Applicant.
Mr. A.M. Kadukar, APP for the Non-applicant No.1/State.
Ms. J. Nagdeve, Advocate h/f Mr. P.S. Wathore, Advocate for the
Non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 09th MARCH, 2026.

ORAL JUDGMENT :-

1. Heard.

2. **ADMIT.** Heard finally by the consent of learned Counsel for the respective parties.

3. The present Application is preferred by the Applicant under Section 482 of the Indian Penal Code for quashing of the First Information Report in connection with Crime No.165/2024 registered with Police Station Ramdaspath, District Akola for the offence punishable under Sections 376, 376(2)(n), 417 of the Indian Penal Code (for short “IPC”) and consequent proceeding arising out of the same bearing Charge-sheet No. 8/2026.

4. The crime is registered on the basis of a report lodged by the victim/Non-applicant No.2 on an allegation that, she is residing alongwith her mother and brother. She got acquaintance with the present Applicant and thereafter the friendship was developed between them and the said relationship was converted into the love affair. It is stated by her that, she was communicating with the present Applicant on various occasions through mobile chats. As per her allegations, she was subjected for forceful sexual assault by the present Applicant on various occasions and subsequently married with

another lady. Thus, on the false promise he has subjected her for the forceful sexual assault and thereby committed an offence. On the basis of the said report Police have registered the crime against the present Applicant.

5. Heard learned Counsel for the Applicant who submitted that, from the recitals of the FIR and the statements of the witnesses itself it reveals that it was a consensual relationship, and therefore, no offence is made out. In view of that, the Application deserves to be allowed.

6. *Per contra*, learned APP and learned Counsel for the Non-applicant No.2, strongly opposed the said contentions and submitted that on the basis of false promise of marriage her consent was obtained, and therefore, the Application deserves to be rejected.

7. On hearing both the sides and on perusal of the recitals of the FIR and investigation papers it reveals that the prosecutrix who herself is 34 years of age grown up lady knows the consequences of her act entered into the relationship by understanding all the consequences if she enters into such type

of relationship. The prosecutrix who herself is a grown up lady could not be said to have acted under the alleged false promise given by the present Applicant. Moreover, the misconception of fact should have a proximity of time. She was in relationship with the present Applicant from 2019 to 2023 i.e. more than three years, and therefore, it cannot be said that the misconception of fact in the alleged act is in proximity of time.

8. This aspect is considered by the Hon'ble Apex Court in the celebrated judgment in the case of ***Pramod Suryabhan Pawar vs. State of Maharashtra & Anr., (2019) 9 SCC 608***, wherein after considering the various judgments, the Hon'ble Apex Court in para 18 held as under :

“18. To summarise the legal position that emerges from the above cases, the “consent” of a woman with respect to Section 375 must involve an active and reasoned deliberation towards the proposed act. To establish whether the “consent” was vitiated by a “misconception of fact” arising out of a promise to marry, two propositions must be established. The promise of marriage must have been a false promise, given in bad faith and with no intention of being adhered to at the time it was given. The false promise itself must be of immediate relevance, or bear a direct nexus to the woman’s decision to engage in the sexual act.”

9. The allegations in the FIR indicates that since 2019 to 2023 she was in relationship, therefore the contention of the

present Non-applicant No.2 that under the misconception of fact her consent was obtained is not sustainable. It is apparent that, the relationship between both of them who are the grown up adults is consensual in nature, and therefore, no offence is made out. In view of that, the Application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- i. Criminal Application is **allowed**.
 - ii. The First Information Report in connection with Crime No. 165/2024 registered with Police Station Ramdaspath, District Akola for the offence punishable under Sections 376, 376(2)(n), 417 of the Indian Penal Code and consequent proceeding arising out of the same bearing Charge-sheet No. 8/2026, are hereby quashed and set aside to the extent of present Applicant.
10. Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI PHALKE, J.)