



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

CRIMINAL APPLICATION (APL) NO.1268/2024

Mr. Tushar s/o Ajay Sukhdeve
Age 30 years, Occupation Service
R/o Plot No.531, New Subhedar Layout,
Nagpur, Maharashtra-440024

... **APPLICANT**

...VERSUS...

1. State of Maharashtra,
Through the Police Station Officer,
Police Station Bhandara,
Tq. And Dist. Bhandara
2. Victim XYZ
Crime No.0816/2023
Police Station, Bhandara
Teh. And Dist. Bhandara

... **NON-APPLICANTS**

Shri Y.D. Badani, Advocate a/w Shri D.J. Sindhu, Advocate for applicant
Shri G.S. Umale, APP for non-applicant No.1/State
Ms Amruta A. Gijare, Advocate (appointed) for non-applicant No.2

CORAM : **PRAVIN S. PATIL, J.**

DATED : **29.01.2026**

ORAL JUDGMENT

Heard. By consent of the parties, this matter is taken
for final disposal at admission stage.

2. By this application, the applicant is seeking quashment of charge-sheet No.09/2024 arising out of Crime No.0816/2023 registered with Police Station, Bhandara for the offence punishable under Section 376(2)(n) of the Indian Penal Code.

3. The present applicant approached before this Court mainly on the ground that the allegations leveled against him of forcible sexual intercourse upon the informant on the promise of marriage is incorrect because the relations between them were of consensual nature and from the record, it is clear that they were in a love relations for a considerable period and hence, no offence is made out under Section 376(2)(n) of the Indian Penal Code. Therefore, seeks indulgence of this Court in the matter.

4. The prosecution story in short is that non-applicant No.2 on 18.11.2023 lodged a police complaint alleging that in the month of December 2020, she came in contact with the applicant through Matrimony App and since then they were in contact through social media. In the month of January, 2021, both were mutually agreed for their marriage. It is alleged that in the month of February 2021, applicant and informant met at Hotel Ashoka,

Bhandara, where their sexual relations were established. It is alleged that thereafter, the present applicant repeatedly committed physical relations with the informant at various Hotels by giving promise of performing the marriage. It is further alleged that every time, informant met with the applicant, he used to have forcible sexual intercourse with the informant on the promise of marriage. It is alleged that out of this physical relation, the non-applicant No.2 was conceived and applicant, at that time administered pills to her for abortion. After that abortion, the applicant again kept continue forcible sexual intercourse with non-applicant No.2 on the promise of marriage.

5. It is pointed out that in the month of October 2023, when the non-applicant No.2 insisted for performing the marriage, present applicant refused to perform the marriage. As such, according to complainant, for a period of three years, he has established sexual relations with her on the promise of marriage and, therefore, the offence came to be registered against the present applicant in the matter.

6. The present applicant approached before this Court to challenge the registration of offence as well as the charge-sheet by raising a ground that non-applicant No.2 is a well-educated lady of 26 years old. She can understand the moral and immoral acts and the consequences of such relations between applicant and her. It is also stated that continuation of relation for a period of three years cannot be said to be by using force or by giving false promise of marriage. According to him, it was a consensual relationship between them and, therefore, out of that consensual relationship, they continued the same for a period of three years, hence, offence under Section 376(2)(n) of the Indian Penal Code is not attracted in the matter.

7. In response to the notices issued by this Court to the non-applicant No.2, on 23.01.2026 she filed her affidavit in the matter. So also, the learned Counsel appearing for non-applicant No.2 states that by taking instructions from her, the affidavit is prepared in the matter. She has stated in the affidavit that she has no grievance against the applicant in the matter and wants to lead a dignified life. She also stated that out of misunderstanding and

emotional turmoil, the allegations were made against applicant and, therefore, she has no objection if the proceedings are quashed and set aside against the applicant in the matter.

8. Learned APP strongly opposed the application. He has pointed out that the present applicant on 26.11.2023 has given one Haami Patra (affidavit) stating that he is ready to marry with non-applicant No.2 and if he did not perform the marriage, he can be prosecuted in the matter. However, as he has failed to performed the marriage with non-applicant No.2, on complaint of non-applicant No.2, the offence came to be registered in the matter on 18.11.2023. Hence, according to him, considering the entire facts of the matter, the offence is made out and same cannot be compromised, though non-applicant No.2 has filed affidavit in the matter.

9. After perusal of the record, it seems that non-applicant No.2 is a well-educated lady. She was 26 years old and possessed a post-graduation degree. Therefore, in my opinion, she was very much aware of the consequences of such relationships, which were continued between them for a period of three years. The applicant

has placed on record a voluminous communications and the chats between the applicant and non-applicant No.2. The perusal of the said documentary evidence, *prima facie*, shows that they were in a love affair and out of that love affair, there were consensual relations between applicant and non-applicant No.2.

10. It is further pertinent to note that as per the settled principles of law, if such relations were continued for a considerable period and in a given case for three years, in such cases, the only because the relations between applicant and non-applicant No.2 were break down, criminal offence cannot be set in motion. Hence, in my opinion, offence under Section 376 (2)(n) of the Indian Penal Code is not attracted in the matter. The perusal of the record shows that there were consensual relations between them and hence, the interference of this Court is necessary in the matter. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings bearing First Information Report dated 19.11.2023 vide Crime No.0816/2023 and Charge-sheet

No.09/2024, registered with Police Station, Bhandara for the offences punishable under Section 376(2)(n) of the Indian Penal Code is hereby quashed and set aside.

11. The application stands disposed of. No order as to the costs.

(PRAVIN S. PATIL, J.)

R.S. Sahare