



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

CRIMINAL APPLICATION (APL) NO.1318/2024

Feroz Khan Turebaz Khan,
Aged about 52 years, Occu: Business,
R/o- Plot No.33, behind Swami Narayan
Mandir Shrwani Nagar, Wathoda Lay-out,
Bhandewadi, Bagadganj, Nagpur City,
Maharashtra.

... APPLICANT

...VERSUS...

1. State of Maharashtra,
Through Police Station Officer,
P.S. Lakadganj, Nagpur City,
Maharashtra
2. Pravin Chabilal Patel,
Aged about 51 years, Occ: Private
R/o Plot No.248, Babulban Garoba
Maidan, Lakadganj, Nagpur
Maharashtra.

...NON-APPLICANTS

Shri M.N. Ali, Advocate for applicant
Shri M.J. Khan, APP for non-applicant No.1/State
Ms Apurva D. Kolhe, Advocate for non-applicant No.2

CORAM : PRAVIN S. PATIL, J.

DATED : 04.02.2026

ORAL JUDGMENT

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

2. By this application the applicant herein seeks quashment of the criminal proceedings registered against him vide Session Case No.606/2022 pending on the file of Additional Sessions Judge, Nagpur arising out of Crime No.454/2022 registered with Police Station Lakadganj, Nagpur for the offences punishable under Sections 363, 364-A, 376(2)(n) of the Indian Penal Code.

3. The applicant came with the submission before this Court that from the allegations, which are leveled in the matter by the non-applicant No.2, even if they are accepted in its entirety, no offence as alleged is made out against him. It is clear case of consensual relations between the applicant and non-applicant No.2 and, therefore, seeks quashment of the entire proceedings registered against him.

4. Learned APP and non-applicant No.2 vehemently opposed the present application. According to them, the allegations which are leveled against the present applicant clearly demonstrate that she was abducted and then the applicant has established forcible physical relations with her. She was taken by the applicant at various places without her consent and, therefore, the offences are rightly registered against the present applicant in the matter. Hence, they prayed for dismissal of present application.

5. The perusal of the complaint, on the basis of which the complaint is registered against the present applicant, it is clear that at the time of lodging the complaint, the non-applicant No.2 was of 44 years of age. She was a married lady having one son and one daughter. Her daughter has also been married as per her own contentions. It is alleged by her that the present applicant, who was earlier her neighbourer, she was knowing him since last more than 27 years. Earlier to this, she was in relation with the applicant and this fact came to the knowledge of her husband, she has stopped her relations with the present applicant. However, after the marriage of her daughter, she came to know that the applicant is

also resident alone as his family has left him. Thereafter, their relations established and out of that love relations, they again established their physical relations.

6. According to the complainant, the applicant on 29.04.2022 has proposed her that they should elope and thereby asked the applicant to bring some amount and all ornaments from her house thereafter they went to Amravati and then Aurangabad. As such, at that places, their physical relations were established. However, after these relations were broken for certain reasons, she has lodged a police complaint on 25.07.2022 and alleged that all these happened with her because of the false promise given by the applicant for marriage, she was abducted without her consent and, therefore, on the basis of this allegation, the offence came to be registered in the matter.

7. Bare perusal of the complaint, it is clear that there was consensual relations between the applicant and non-applicant No.2. Applicant, at the time of lodging complaint, was of 44 years old. Therefore, she could understand the consequences of keeping such relations with the non-applicant No.2. Therefore, considering this

fact, by any stretch of imagination, the offence under Section 376(2)(n) is not attracted in the matter.

8. The Hon'ble Supreme Court repeatedly has clarified that there is distinction between the rape and consensual relations. In such cases, the Court is required to examine whether the applicant has actually wanted to marry the victim or had malafide motive and had made a false promise to this effect only to satisfy his lust. So also, it is necessary to look into the complaint, and see whether the victim with her intention and to satisfy her desire of sexual intercourse has established the relations with the applicant. In case, the victim acknowledged the consensual physical relations, then in that case, offence under Section 376(2)(n) of the Indian Penal Code is not attracted in the matter.

9. So also, in the case of *Pramod Suryabhan Pawar Vs. State of Maharashtra and another reported in (2019) 9 SCC 608*, in paragraph No.18, the Hon'ble Supreme Court has observed 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."

10. Considering the entire facts and circumstances of the matter, I am of the considered opinion that there were consensual relations between the applicant and non-applicant No.2. The non-applicant No.2, who was 44 years of age, with her consent, established the physical relations with the applicant. Therefore, no case is made out against the present applicant for any of the offences, which are leveled against him in the matter. Accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings registered vide Session Case No.606/2022 pending on the file of Additional Sessions Judge, Nagpur arising out of Crime No.454/2022 registered with Police Station Lakadganj, Nagpur for the offences punishable under Sections 363, 364-A,

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