



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

CRIMINAL APPLICATION (APL) NO.1495/2024

Pratik Gautam Muneshwar, Aged about:
33 years, Occupation: Student, R/o
Indraprasta Nagar, Taluka and District:
Yavatmal

... **APPLICANT**

...VERSUS...

1. The State of Maharashtra
through Police Station Officer,
Awadhootwadi, District: Yavatmal.
2. XYZ, in Crime No.0695/2024
Registered through Police Station,
Avdhootwadi, Yavatmal for the
offences punishable U/s. 376 (2)(n),
323, 506 of Indian Penal Code.

...**NON-APPLICANTS**

Shri V. Awchat, Advocate for applicant
Ms Deepa I. Charlewar, APP for non-applicant No.1/State

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

DATED : **21.01.2026**

ORAL JUDGMENT

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

Corrected as per Court's Order dated 17.02.2026
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2. The applicant herein challenged the registration of Sessions Case No.112/2024 pending before District and Sessions Judge, Yavatmal, arising out of charge-sheet No.145/2024 registered vide Crime No.695/2024 for the offences punishable under Sections 376 (2) (n), 323 and 506 of the Indian Penal Code.

3. The case of the prosecution in short is that the non-applicant No.2 is a married lady aged about 35 years residing separately from her husband due to their matrimonial dispute and having 9 years old daughter. She was pursuing LLB course at Amolakchand College, Yavatmal. In the year 2022, she came into contact with the present applicant, who is also 33 years old, residing at Yavatmal and pursuing the LLB course. As both were taking education for the same course, they were in a visiting terms and for the discussion, the applicant was in visiting terms to her room. Accordingly, their physical relations were established and same were taken place time and again at the rented room of the non-applicant No.2. It is alleged that on 05.06.2024, the applicant has forcibly trying to establish the physical relations with her and when she denied for the same, the applicant has abused and

threatened her of dire consequences and then she has lodged a complaint against the present applicant in the matter. After the complaint was lodged, offence is registered and investigation is conducted.

4. During the course of investigation, the statements of the husband of non-applicant No.2 and his mother were recorded, who have supported the non-applicant No.2. So also, during the investigation, the WhatsApp chats between the applicant and non-applicant No.2 were also obtained by the investigating officer.

5. In light of these allegations and the investigation report, the present applicant came with a case before this Court that after going through the entire record, it is clear that it is not a case of committing rape with a false promise by the present applicant. According to him, there were consensual relationship between them. It is stated that non-applicant No.2 being 35 years of age and having 9 years old daughter was well aware about the consequences of this relationships. Therefore, according to him, no offence is made out under Section 376 (2)(n) of the Indian Penal Code in the present matter.

6. The learned APP has strongly opposed the present application. According to the learned APP, the perusal of the report and the statement of the mother, which is recorded by the investigating officer, it is *prima facie* clear that the applicant has forcibly maintained the physical relations with non-applicant No.2 against her will. Hence, the offence under Section 376 (2) (n) is made out in the matter and, therefore, it is not a fit case of interference at the instance of this Court at this stage in the matter.

7. After hearing both the parties and on perusal of the record, it is clear that due to family dispute with the husband, non-applicant No.2 along with 9 years daughter was residing separately. She was also working at one Chintamani Urban Bank and left that job two months before lodging the complaint. It is also admitted fact that she was prosecuting LLB course and applicant was also pursuing the same course. Out of the cordial relations between them, the applicant used to visit her house. As and when, the applicant went there, the physical relations were established. It is nowhere alleged that at the time of establishing that relations, any promise of any kind was given by the applicant to the non-applicant

No.2. As such, it was the desire of the non-applicant No.2 to have a sexual relations with the present applicant.

8. In view of certain chats between applicant and non-applicant No.2, collected by investigating officer, I have gone through it. On perusal of the WhatsApp chat, it is clear that both were in a relations and there was a regular talk between them and it's contents shows both were in love of each other and willingly entered into physical relations.

9. As per settled position of law to attract the offence under Section 376(2)(n) of the Indian Penal Code, consent must be by false promise or obtained by force or other means. However, from the averments of the complaint and evidence collected by investigation officer, it is clear that the relations between the applicant and non-applicant No.2 were cordial and with the willingness entered into sexual relations almost for a period of one year. Therefore, it cannot be said that there was a sexual relations without her consent.

10. In the circumstances, considering the overall factual as well as legal position, I am of the considered opinion that the relations between the applicant and non-applicant No.2 were consensual relationship and it was not the case that against her will, the applicant has established the physical relations. Hence, the offence under Section 376(2)(n) as well as 323 and 506 of the Indian Penal Code is not attracted in the matter.

11. In the circumstances, continuing of proceedings against the present applicant would nothing but abuse of process of law and, therefore, interference of this Court is necessary and accordingly, I proceed to pass the following order:

ORDER

- i) The application is allowed.
- ii) The proceedings bearing Charge-sheet No.145/2024 filed in Sessions Case No.112/2024 pending before District and Sessions Judge, Yavatmal, in First Information Report dated 05.06.2024 registered with Police Station Avdhootwadi, Yavatmal, registered vide Crime No.695/2024 for the offences punishable under Sections

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376 (2) (n), 323 and 506 of the Indian Penal Code is hereby quashed and set aside against the present applicant.

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

(PRAVIN S. PATIL, J.)

R.S. Sahare