



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

CRIMINAL APPLICATION (APL) NO. 250 OF 2025

1. **Krishna s/o Suryakant Umredkar**

Aged about 34 years,

Occupation : Private Job,

R/o 135, Lalganj, Raut Square,

Itwari Railway Station Road,

Nagpur

APPLICANT

// V E R S U S //

1. **The State of Maharashtra,**
Through Police Station Officer,
Shantinagar Police Station,
Nagpur

NON-APPLICANTS

2. **XYZ, in FIR No.188/2024,**
Police Station Shantinagar,
Nagpur

Mr. S.P. Sonwane, Advocate for the applicant.

Mrs. Mrunal Barbade, APP for non-applicant No.1 /State.

Mr. Nishant J. Patil, Advocate for non-applicant No.2.

CORAM : URMILA JOSHI PHALKE, J.

DATED : 11.03.2026

ORAL JUDGMENT :

1. Heard.

2. **ADMIT.** Taken up for final disposal with the consent of learned counsel for the parties.

3. By this application applicant is seeking quashing of the First Information Report in connection with crime No.188/2024 registered at Police Station Shantinagar, District Nagpur for the offences punishable under Sections 376, 376(2) (n), 328 and 506 of the Indian Penal Code and consequent proceeding arising out of the same bearing Sessions Case No.467/2024 pending before learned District and Additional Sessions Judge-8, Nagpur.

4. The applicant is arrayed as an accused in connection with crime No.188/2024 on the basis of report lodged by non-applicant No.2 on an allegation that she alongwith the present applicant was working at Petrol Pump. She got acquaintance with the present applicant while working on the petrol pump. As per her allegations on 26.01.2022 applicant has given her some stupefying substance. Thereafter subjected her for forcible sexual assault. She was also threatened by the present applicant. On the basis of the said report police have registered the crime against the present applicant. After registration of crime

investigation started rotating. During investigation she was referred for the medical examination. Relevant statements of the witnesses were recorded. After completion of the investigation charge-sheet was submitted against the present applicant.

5. Heard learned counsel for the applicant who submitted that the relationship between the present applicant and non applicant No.2 was consensual in nature which reveals from the extract which is obtained from the hotel owner. The statement of the said hotel manager is also recorded by the investigating agency which also shows that non applicant No.2 has not shown any displeasure when she had been to the hotel 28.04.2024 for some ours and she has not made any complaint. He also invited my attention towards the WhatsApp chat between present applicant and non-applicant No.2 and submitted that this WhatsApp chat sufficiently shows that the relationship between both of them is consensual in nature. He further placed on record the NCR report lodged by the husband of non-applicant No.2 which shows that applicant and non-applicant No.2 were seen by him in house and on inquiry by him he was abused by the present applicant. Thus, he submitted that these all circumstances

sufficiently show that the relationship between the applicant and non-applicant No.2 was consensual in nature and no offence under Section 376 is made out. In view of that, application deserves to be allowed.

6. Per contra learned APP and learned counsel for the non-applicant No.2 strongly opposed the said contention and submitted that the consent of the present non-applicant No.2 even if it is there it is not relevant as she was threatened. Thus, consent was obtained under the coercion and under pressure. They both have submitted that statement of the victim itself is sufficient to infer the inference that she was subjected for the forceful sexual assault at the hands of the present applicant and therefore, application deserves to be rejected.

7. After hearing both the sides and on perusal of the entire investigation papers it reveals that though the non-applicant No. 2 alleged that she was subjected for the forceful sexual assault by the present applicant on 26.01.2022 by giving some stupefying substance and her obscene photographs are obtained. During investigation the Investigating Officer has seized

the mobile phone of the applicant but nothing is found in his mobile during the mobile identification panchanama. The investigating officer also collected hotel register which shows that applicant and non-applicant No.2 stayed there for some time. The statement of the manager of the hotel also shows that present non-applicant No.2 has not shown any displeasure at the relevant time. The WhatsApp chat also discloses the nature of the relationship between present applicant and non-applicant No.2 and the NCR report filed by the husband of the non-applicant No.2 substantiates the fact that there was consensual relationship between the applicant and non-applicant No.2. In the instance case victim who herself is a married lady and knows the consequences of her act went along with the present applicant in the hotel. There was WhatsApp communication between both of them which sufficiently shows that the relationship is in the nature of consensual in nature. This aspect is considered by the Hon'ble Apex Court in the case of ***Pramod Suryabhan Pawar vs The State Of Maharashtra and another*** reported in (2019) 9 SCC 608 wherein by considering the catena of decisions it is held that 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. Here in the present case the facts and circumstances of the case in which the alleged incident has taken place sufficiently shows that there was a consent on the part of the present non-applicant No.2.

8. The consent for the purpose of Section 375 of the IPC requires some voluntary participation not only after the exercise of intelligence based on the knowledge of the significance of moral quality of the act, but after having fully exercised the choice between resistance and assent. There was a consent which is apparent from the circumstances which are brought on record which sufficiently shows that the physical relationship between the applicant and non-applicant No.2 was consensual in nature. In view of that, application deserves to be allowed.

9. Hence, I proceed to pass the following order:-

ORDER

(i) The Criminal Application is allowed.

(ii) First Information Report in connection with crime No.188/2024 registered at Police Station Shantinagar, District Nagpur for the offences punishable under Sections 376, 376(2) (n), 328 and 506 of the Indian Penal Code and consequent proceeding arising out of the same bearing Sessions Case No.467/2024 pending before learned District and Additional Sessions Judge-8, Nagpur is quashed and set aside against the applicant- Krishna s/o Suryakant Umredkar.

10. The criminal application stands disposed of in the above said terms.

Pending applications, if any, also stand disposed of.

(URMILA JOSHI PHALKE, J.)

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