



Judgment

11 apl784.25

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

CRIMINAL APPLICATION APL NO.784 OF 2025

Dnyaneshwar s/o Deoraoji
Sable, aged about 44 years,
occupation cultivator,
r/o Pavangaon (Karur),
tahsil Samudrapur, district
Wardha.

..... **Applicants.**

:: V E R S U S ::

1. State of Maharashtra,
through Police Station
Officer, Police Station Girad,
tahsil Samudrapur, district
Wardha.

2. Priyanka Doma Bagne, aged
about 30 years, occupation labour,
r/o Pavangaon, Samudrapur,
Girad, district Wardha.

..... **Non-applicants.**

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Shri S.O.Ahmed, Counsel for the Applicant.
Shri A.M.Joshi, APP for NA No.1/State.
Ms S.H.Bhatia, Counsel for NA No.2.

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CORAM : **URMILA JOSHI-PHALKE, J.**

DATE : **27/02/2026**

ORAL JUDGMENT

1. Heard. **Admit.** Heard finally by consent.

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2. By this application, the applicant is seeking quashing of FIR in connection with Crime No.359/2024 registered with the non-applicant No.1 police station for offences under Sections 354-A, 376(1), 452, and 504 of the IPC and consequent proceeding arising out of the same bearing RCC No.55/2025 pending on the file of learned JMFC, Samudrapur.

3. The crime is registered on the basis of a report lodged by non-applicant No.2 (the complainant) on allegations that the applicant is resident of the same village and is having an agricultural land adjacent to the agricultural land of the complainant.

It is alleged by her that as they were visiting to each other's houses, there was acquaintance. On 5.5.2023, the applicant had been to her house and nobody was in the house and he has subjected her for forceful sexual assault and threatened her that if she discloses the said incident to

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anybody, he would do something and her husband will be implicated in a false offence.

She further alleged that she has also handed over her mobile phone.

On the basis of the said report, the police have registered the crime against the applicant.

4. Learned counsel for the applicant submitted that the FIR is lodged after one and half year of the said incident. There is no explanation as far as the delay is concerned.

He submitted that even accepting the allegation as it is, it is apparent that it is consensual physical relationship between both of them and investigation papers also do not disclose any *prima facie* offence against the applicant.

In view of that, the application deserves to be allowed and the FIR deserves to be quashed.

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5. *Per contra*, learned APP for the State and learned counsel for the complainant submitted that as the complainant was threatened by the applicant, she has not lodged the FIR regarding the said incident.

In view of that, the application deserves to be rejected.

6. On hearing both sides and perusing the entire investigation papers, it reveals that as per allegations of the complainant, the alleged incident of physical assault on her has taken place on 5.5.2023. Thereafter, the applicant met her on 12.12.2024 and thereafter on 23.12.20024. Thus, after the subsequent incident also, she has not disclosed the incident to anybody.

7. As far as her contention, that as she was threatened, she has not lodged complaint, has no substance. As she was residing along with her husband, there was opportunity to disclose the said incident to her husband. Admittedly, the complainant is a grown up lady of 30 years and knows

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consequences of her act. The possibility of having consensual relationship is also not ruled out.

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 and anr, reported in (2019)9 SCC 608**. The Hon'ble Apex Court, after considering catena of decisions, 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. 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".

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9. The allegations in the FIR indicate that the alleged incident has taken place on 5.5.2023. Thereafter, there was meeting between the applicant and the complainant on 12.12.2024 and 23.12.2024. Thereafter, also, she has not made any complaint about this incident. On 28.12.2024, she made the complaint about the said incident.

10. Admittedly, the delay in FIR is not always fatal to the prosecution as far as sexual assault is concerned, but delay in lodging FIR is to be explained by giving reasonable cause. As in the present case, the complainant has not given any reasonable explanation to the delay in FIR, the implication of the applicant due to some other reasons cannot be ruled out.

11. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(1) The criminal application is **allowed**.

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(2) FIR in connection with Crime No.359/2024 registered with the non-applicant No.1 police station for offences under Sections 354-A, 376(1), 452, and 504 of the IPC and consequent proceeding arising out of the same bearing RCC No.55/2025 pending on the file of learned JMFC, Samudrapur are hereby quashed and set aside to the extent of present applicant Dnyaneshwar s/o Deoraoji Sable.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!

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