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

CRIMINAL APPLICATION (APL) NO.871 OF 2025

1. Saurabh Sunil Rahangdale,
Aged about 22 Years,
Occupation Education,
R/o. MHADA Colony, M.I.D.C.,
Ghuggus Road, Tahsil and
District Chandrapur.
Present address: R/o. Gate No.5,
Mount Painsur Sardar Patel Road,
Boriwali (West), Mumbai – 400103.

.... APPLICANT

// VERSUS //

1. State of Maharashtra,
Through Police Station Officer,
Police Station, Durgapur,
Tahsil and District Chandrapur,
2. XYZ (reporter in Crime No.41/2025)
through PSO, PS Durgapur,
Tahsil and District Chandrapur.

....NON-APPLICANTS

Mr. A. S. Chandekar, Advocate for applicant.
Mr. A. M. Kadukar, APP for non-applicant No.1/State.
Mr. Yash Bage, Advocate h/f Mr. Shantanu Taywade,
Advocate (appointed) for non-applicant No.2

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 24/02/2026

ORAL JUDGMENT :

1. Heard.
2. **Admit.**

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3. Heard finally with the consent of the learned Counsel for the applicant, learned APP for the State and learned appointed counsel for the non-applicant No.2.

4. By this application, the applicant is seeking quashing of the FIR in connection with Crime No.41/2025 registered with Police Station Durgapur, District Chandrapur for the offence punishable under Sections 64(2)(m), 77 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short 'BNS').

5. The crime is registered on the basis of a report lodged by the non-applicant No.2 on an allegation that her marriage was performed with one Siddharth Mange, but he was addicted to bad vices and therefore, she constrained to leave the matrimonial house and started residing at her parent's house. She was serving as a lecturer in one college, where she got acquaintance with the present applicant, who is aged about 23 years. He used to communicate with her regarding his curricular. It is alleged that he was also communicating through social media and one day, he has proposed her. In the year 2022, there was a physical relationship developed between them by her consent, and thereafter, on various occasions there was a physical relationship between them. It is alleged by her that the present applicant has obtained her obscene photographs and subsequently, he denied to perform marriage with her and also

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threatened her to make the said photographs viral. On the basis of the said report, police have registered the crime against the present applicant.

6. Heard learned counsel for the applicant, who submitted that the recitals of the FIR, especially her contention that there was a physical relationship between them which is out of consent itself is sufficient to show that no offence is made out against the present applicant and therefore, the application deserves to be allowed.

7. Per contra, learned APP and learned appointed counsel for the complainant invited my attention towards the mobile seizure panchnama and submitted that during inspection of the said panchnama some obscene photographs were seen. It shows that there is a substance in the allegation that the present applicant is having her obscene photographs and therefore, the application deserves to be rejected.

8. On hearing both sides and on perusal of the investigation papers, the recitals of the FIR itself shows that the present applicant and the non-applicant No.2 entered into the relationship at their own. The physical relationship was also developed between them out of consent. The recitals of the FIR itself says that they both have decided to have a physical relationship and accordingly, there was a physical relationship

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between them. Thus, from the recitals of the FIR it reflects that the relationship between the present applicant and the non-applicant No.2 is of consensual in nature. Thus, as far as the offence under Section 376(2)(n) of IPC is concerned, which is not made out being the relationship is consensual in nature. In the present application the non-applicant No.2 is grownup lady aged about 35 years, whereas the present applicant aged about 23 years old. The prosecutrix who herself is a married woman and lives her married life with her husband and subsequently also having two children, it could not be said that she has acted under the alleged false promise given by the applicant or under the misconception of fact. Moreover, the relationship between them since 2022 and the FIR is lodged in the year 2025. Thus, there was no proximity of time to the occurrence and the relationship more than two years therefore, it cannot be said that it was under the misconception of fact.

9. Coming to the aspect of the offence punishable under Section 77 of BNS i.e. Voyeurism which reads as under:

"77. Voyeurism - Whoever watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall

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also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

For the purposes of this section, the explanation 1 states that "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2 states that where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

10. In view of explanation 2, if the allegations are looked into the panchnama i.e. mobile panchnama shows that the photographs are when the victim was roaming along with the present applicant and obtained the said photographs with the present applicant itself. There is no allegation that present applicant either circulated the said photographs to any third person, therefore, the offence under Section 77 of BNS is also not made out against the present applicant.

11. Thus, considering the entire allegation levelled against the present applicant, the offence under Section 376(2)(n) of IPC/64(2)(m) of BNS as well as under Section 77 of BNS is not

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made out against the present applicant. The relationship is of a consensual in nature. The offence as far as under Section 77 of BNS is concerned, in view of explanation 2 under Section 77 the offence is also not made out. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is **allowed**.
- (ii) The FIR in connection with Crime No.41/2025 registered with Police Station Durgapur, District Chandrapur for the offence punishable under Sections 64(2)(m), 77 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, and the consequent proceeding arising out of the same bearing charge sheet No.22/2025, is hereby quashed and set aside against the present applicant.

12. The fees of the appointed counsel be quantified as per rules.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)