

MHRG010019682020



**Sessions Case No. 37/2020**

State of Maharashtra  
V/s.  
Kanhayya Ramlautan Singh

**:: ORDER BELOW EXH. 15 ::**  
**[ Passed on 30.07.2024 ]**

Accused has filed this application for his discharge u/s 227 of Cr.PC. The prosecution has opposed the application vide reply Exh.28. The counsel for accused has filed written notes of argument Exh.30. Ld. APP Smt. Dhumal submitted that her written say may be considered as her argument. Perused the record.

2. It is the contention of the accused that though chargesheet has been filed against him for the offences punishable u/s 376, 420 and 506 of IPC but on perusal of the complaint and statements of the witnesses there is nothing on record to show that the accused has forcibly committed sexual intercourse with the victim without her consent. On the contrary the complainant herself has admitted that she was having love affair with the accused and the physical relations between them established out of the love affair. The other witnesses have nowhere stated about any forcible physical relations by the accused with the victim. Whereas the father of the victim has refused for the marriage of victim with the accused and therefore he filed false complaint. Even medical evidence shows that no signs or symptoms found in

respect of forcible sexual intercourse and therefore the accused may be discharged as no fruitful purpose would be served by putting him into the trial.

3. As against this the ld. APP argued that the statements of the complainant and witnesses clearly show that though accused was married he made a false promise of marriage to the victim and committed repeated sexual intercourse with her and therefore there is sufficient evidence on record to frame charge against the accused and hence application may be rejected.

4. The accused is alleging that there was consent of the victim for the sexual act between them and therefore no offence u/s 376 of IPC is made out against him. Whereas it is the contention of the complainant that since beginning accused had no intention to marry with her and he given false promise of marriage and even she was not willing he committed sexual intercourse with her and therefore committed rape on her.

5. On perusal of the statement and supplementary statement of victim girl she has specifically mentioned that the accused forcibly committed sexual intercourse with her by making false promise of marriage and thereafter also he repeated the same act by continuing his false promise of marriage but later on the complainant found that the accused married with one Ragini Gupta and when she visited the house of accused and asked him about the same he flatly denied any relationship with her and also threatened her. It has come in her statement that even the accused assured the mother of the victim that he will marry with the victim when she asked accused about the news of his second marriage. The statement of Ragini Gupta also shows that in November 2019

her marriage with the accused was fixed and engagement was performed and the victim was always calling the accused and therefore she asked the accused about the victim and at that time accused admitted that he had physical relation with the victim on two occasions. Thus there are specific allegations against the accused in the statement of victim, her mother and father, to the effect that accused made a false promise of marriage to the victim and forcibly committed sexual intercourse with her. Thus the alleged consent of the victim for sexual intercourse was given by the victim under misconception of promise of marriage by the accused. Whether the accused had an intention not to marry with the victim since beginning and whether he made a false promise only for sexual pleasure with the victim can be ascertained only after giving an opportunity of adducing evidence to the prosecution. At this stage the statement of the victim and her parents are sufficient for framing of charge against the accused. In such circumstances the accused cannot be discharged. Hence the following order.

**Order**

Application is rejected.

Alibag  
Dt. 30.07.2024

(A. S. Rajandekar)  
Sessions Judge, Raigad-Alibag.