

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.282 OF 2014

Dnyaneshwar s/o Dinkar Kondke,
Age-25 years, Occu:Agril.,
R/o-Ranjangaon (Khd.),
Tq-Phulambri, Dist-Aurangabad

...PETITIONER
(Orig. Accused)

VERSUS

- 1) The State of Maharashtra,
Through I.O. of
Vadodbazar Police Station,
Tq-Phulambri, Dist-Aurangabad,
- 2) Kum. Yogita D/o. Dadarao Tupe,
Age-17 Years, Occu:Household,
Through her under Guardian,
Dadarao s/o Sandu Tupe,
Age-41 years, Occu:Agril.,
R/o-Adgaon (Khurd),
Tq-Phulambri, Dist-Aurangabad.

...RESPONDENTS

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Mr.Paresh B. Patil Advocate for Petitioner.
Mr.B.L. Dhus, A.P.P. for Respondent No.1.
Mr.C.P. Patil Advocate for Respondent No.2.

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CORAM: S.S. SHINDE AND
A.I.S. CHEEMA, JJ.

DATE : 16TH JUNE, 2015

ORAL ORDER :

1. Rule, returnable forthwith. By consent of the parties, taken up for final hearing.

2. Advocate Shri C.R. Patil has tendered Vakalatnama for Respondent No.2 since Advocate earlier appearing for Respondent No.2 is no more. The said Vakalatnama is taken on record.

3. This Petition is filed with the prayer that, by issuance of Writ of Certiorari or any other appropriate Writ, orders or directions, F.I.R. bearing No. I-100/2013 registered with Wadodbazar Police Station, Taluka Phulambri, Dist-Aurangabad for offence punishable under Sections 363, 366(A), 376(f), 506 of Indian Penal Code, 1860 and Section 6 & 10 of the Protection of Children from Sexual Offences Act, 2012 along with the Charge-Sheet No.117/2013 and Session Case No.14/2014 pending with file of learned Sessions

Judge, Aurangabad may kindly be quashed and set aside.

4. In pursuance to the notice issued to Respondent No.2, Respondent No.2 has filed affidavit-in-reply. If the pleadings in the Petition and in particular Para 12 thereof, conjointly read with the averments in Para 5 of the affidavit-in-reply are perused, the position emerges that the dispute between the Petitioner and Respondent No.2 has been resolved and amicably settled by both the parties out of the Court in presence of reputed persons from their villages.

5. The Petitioner and Respondent No.2 are present before this Court. Respondent No.2 stated that amicable settlement arrived at between the parties out of the Court, is out of free will and without any coercion. During the pendency of this Petition, the Petitioner and Respondent No.2 got married on 28th October 2014. Thereafter Petition

was listed for hearing on 5th November 2014 when this Court deferred the hearing of this Petition, so as to observe conduct of the parties and to find out whether the matrimonial tie was voluntary act and they are really cohabiting peacefully.

6. The Petitioner and also Respondent No.2 stated that their matrimonial life, since their marriage, is peaceful. In the light of pleadings in the Petition and the averments in the affidavit-in-reply and all other documents placed on record, we are of the considered view that no fruitful purpose will be served by keeping the proceedings pending arising out of F.I.R. bearing No. I-100/2013 registered with Wadodbazar Police Station, Taluka Phulambri, Dist-Aurangabad for offence punishable under Sections 363, 366(A), 376(f), 506 of Indian Penal Code and Section 6 & 10 of the Protection of Children from Sexual Offences Act, 2012 along with the Charge-Sheet No.117/2013 and Session Case No.14/2014 pending

with file of learned Sessions Judge, Aurangabad. The same will result abuse of the process of the Court when the complainant herself is not ready to prosecute the further proceedings.

7. In that view of the matter and keeping in view the parameters laid down in the case of ***Gian Singh Vs. State of Punjab and another reported in (2012) 10 SCC 303***, we allow this Writ Petition in terms of prayer clause (B) of the Petition.

8. Rule made absolute on the terms indicated above. The Writ Petition stands disposed of, accordingly.

[A.I.S.CHEEMA, J.]

asb/JUN15

[S.S. SHINDE, J.]