

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.111 OF 2015

Annasaheb Baban Kadam & ors.	...	...Applicants
v/s.		
The State of Maharashtra & ors.		...Respondents

...

Mr.V.V.Purwant i/b Mr.Vikrant V.Phatak for the Applicants.
 Ms.M.H.Mhatre, APP for the Respondent No.1.

...

CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 4 OCTOBER 2016

P.C.:

On the earlier date, appearance of the Advocate for the second Respondent has been wrongly noted as appearing for the third Respondent. By order dated 26 March 2016, a notice was ordered to be issued to the second Respondent. Office remark shows that the notice has been duly served. The third Respondent is the victim of the alleged offence, who is personally present in the Court.

2. The prayer in this Application under section 482 of the Code of Criminal Procedure, 1973 (for short "CrPC") is for quashing an offence under section 366 and 366A read with section 34 of the Indian Penal Code. The First Informant (the second Respondent) is the father of the third Respondent. In the First Information Report, it is alleged that at the relevant

time the age of the third Respondent was 17 years and she was studying in 12 standard. It is further alleged that the present Applicants abducted the third Respondent.

3. In this Petition, it is claimed that the marriage between the first Applicant and the third Respondent has been solemnized on 26 December 2014. The Applicants are relying upon the photographs taken during the marriage ceremony. The date of birth of the third Respondent as evidenced by the School leaving Certificate, a copy of which is annexed as Exhibit "B", is dated 1 November 1996.

4. As per the directions issued by this Court, the Inspector of Police of Akkalkot North Police Station, Solapur made verification. Now the marriage solemnized on 26 December 2014 has been registered on 26 September 2016. Today, the learned APP, on instructions, states that the Police have verified the fact the first Applicant and the third Respondent are residing at Pune as husband and wife. The first Applicant and the third Respondent are present in the Court. They reiterated through their learned Counsel that they are residing together at Pune as husband and wife. Their marriage is solemnized on 26 December 2014 when the third Respondent had attained majority.

5. In view of the solemnization of marriage between the first Applicant and the third Respondent, now continuation of criminal proceedings will cause undue hardship to both of them. Moreover, chances of conviction are very bleak.

6. Therefore, this is a fit case where power under section 482 of CrPC should be exercised by quashing the offence. As stated earlier, the second Respondent, after service of notice, has not chosen to appear and contest the proceedings.

7. Accordingly, we pass the following order:

Rule is made absolute in terms of prayer clause (a), which reads thus:

(a) this Hon'ble Court be pleased to quash the F.I.R. Which is registered vide C.R.No.172 of 2013 with Akkalkot North Police Station, Solapur, on such terms and conditions as this Hon'ble Court deem fit and proper in the facts and circumstances of the case;

(A.A. SAYED, J.)

(A.S.OKA, J.)