

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.893 OF 2016

Mr.Vikas Sudhakar Mhatre	...	...Applicant
v/s.		
1.Mangala Anandrao Jagtap & anr.		...Respondents

Mr.Ranjit S.Singh for the Applicant.
 Mr.Sujeet Agarwal for the Respondent No.1 & 3.
 Mrs.S.V.Sonawane, APP for the Respondent No.2.

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

DATED : 13 OCTOBER 2016

P.C.:

Perused the orders dated 10 August 2016 and 8 September 2016.
 Rule. Learned Counsel appearing of the Respondents Nos. 1 & 3 waives service. Learned APP waives service for the second Respondent.
 Forthwith taken up for final disposal.

2. The prayer in this Application under section 482 of the Code of Criminal Procedure (for short "CrPC") is for quashing the First Information Report registered at the instance of the third Respondent for the offence punishable under sections 363,366-A and 376 of the Indian Penal Code read with Section 4 of Protection of Child from Sexual Offences Act, 2012.

3. The victim of the offence is the third Respondent. The first Respondent , who is the First Informant, is the mother of the victim of the offence. The prayer for quashing is made on the basis of subsequent marriage solemnized between the third Respondent and the Applicant. The marriage has been solemnized on 6 November 2015. The date of birth of the third Respondent as evident from the School Leaving Certificate is 24 June 1997.

4. The allegation in the statement of the First Informant on the basis of which the First Information Report is registered is that on 21 November 2014, the present Applicant by representing to the third Respondent that he was desirous of getting married with her, kidnapped the third Respondent from the lawful custody of the First Informant. The statement of the third Respondent recorded by the police shows that there was a love affair between her and the Applicant.

5. The contention of the Applicant is that though earlier he married to the third Respondent on 21 November 2014, on insistence of the family members of both of them, a marriage was again performed on 6 November 2015. By earlier order, we directed the Investigating Officer to verify the claim regarding the marriage between the Applicant and the third

Respondent. The marriage has been registered on 6 November 2015 in accordance with law. The Investigating Officer produced for perusal of the Court the memorandum of marriage and documents annexed to the said memorandum.

6. The parents of the Applicant have filed a separate Affidavits. In their Affidavits, they accepted that there is a marriage solemnized between the Applicant and the third Respondent on 6 November 2015. They have stated that the Applicant and the third Respondent are happily residing together. Both of them have undertaken to the Court that they will properly look after the third Respondent and they will not harass or pressurize or do any act against the third Respondent.

7. The First Informant/first Respondent has also filed an Affidavit and has accepted that the marriage was solemnized between the Applicant and the third Respondent on 6 November 2015. She has stated that relationship between her family and the Applicant's family are very cordial. There is a separate Affidavit filed by the third Respondent (victim of the offence) reiterating that there was a marriage solemnized on 6 November 2015 and she is living a happy married life with the Applicant.

8. Learned APP, on instructions, states that the Investigating Officer has verified that the Applicant and the third Respondent are residing together as husband and wife.

9. Perusal of documents on record shows that when the alleged incident occurred, the age of the third Respondent was approximately 17 years and five months. As stated earlier, after attaining majority, she has lawfully married to the Applicant. The Applicant's parents have given undertakings to this Court to properly look after the third Respondent. It appears from the statement of the third Respondent recorded by the police that there was a love affair between the Applicant and the third Respondent. We accept the undertakings given by Shri Sudhakar Mhatre and Smt. Gangabai Sudhakar Mhatre.

10. In view of the aforesaid events, which have taken place subsequent to registration of the First Information Report, now the continuation of criminal proceedings will not serve any purpose. On the contrary, continuation of criminal proceedings would cause undue hardship to the Applicants and the third Respondent. Hence, this is a fit case to apply the law laid down by the Apex Court in the case of **Gian Singh v/s. State of Punjab and anr.**¹

¹ (2012) 10 SCC 303

11. Hence we dispose of the Application by passing the following order:
Rule is made absolute in terms of prayer clause (b), which reads thus:

“(b) This Hon'ble Court may kindly be pleased to exercise its inherent powers u/s. 482 of Cr.P.C. and kindly be pleased to quash Sessions Case No.37 of 2015 in C.R.No.284/2014 pending before the Court of Sessions, Mumbai, lodged by Chunabhatti Police Station for offences punishable u/s 363, 366(A), 376 of I.P.C. r/w Section 4 of Protection of Child From Sexual Offences Act,2012, lodged at the instance of Mangala Anandrao Jagtap (Ori.Complainant) i.e. the Respondent No.1.”

All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S.OKA, J.)