

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3303 OF 2016

Mr. Avijeet Sadanand Chourasia

..... Petitioner

V/s

The State of Maharashtra & Anr.

..... Respondents

Ms. Anita Wakchaure i/b Mr. Vijay R. Shinde for the Petitioner.

Mr. K.V. Saste, APP for the Respondent No.1/State.

Ms. Saima H. Shaikh/Ishika Choursia – Respondent No.2 in person.

Mr. A.D. Madke, (API), Kmothe Police Station, Navi Mumbai.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 25 OCTOBER 2016

ORDER:

1 Rule. The learned APP waives service for the first Respondent. The second Respondent appearing in person waives service. The Investigating Officer Shri A.D. Madke, API, Kamothe Police Station, Navi Mumbai is present. He identifies the second Respondent who is the first Informant in the First Information Report subject matter of challenge in this Petition.

2 The first Information Report had been registered at the instance of the second Respondent alleging commission of offences punishable

under sections 376, 417, 380, 323 and 504 of the Indian Penal Code. The case made out in this Petition is that the Petitioner married to the second Respondent on 24 June 2016 in accordance with the Hindu vedic rites. The second Respondent has filed an Affidavit affirming that there is a marriage solemnized between her and the Petitioner on 24 June 2016.

3 As the alleged marriage was not registered, we directed the Investigating Officer to verify the factual aspects. Accordingly, the Assistant Police Inspector attached to Kamothe Police Station, Navi Mumbai has submitted a Report dated 17 October 2016. In the Report, he has stated that he had recorded the statements of the Priest and two other witnesses. He has recorded that the Petitioner has married to the second Respondent. He has also recorded supplementary statement of the second Respondent on 24 June 2016 in which she has stated that the alleged stolen ornaments and cash was found in the drawer of the dressing room of her house.

4 Perusal of the First Information Report shows that the offence under section 376 of the Indian Penal Code is not made out as at the relevant time, the age of the second Respondent was more than 18 years and the relationship appears to be consensual.

5 Now in view of the marriage between the Petitioner and the second Respondent and in view of the supplementary statement of the second Respondent, the continuation of criminal proceedings will cause undue harassment to the Petitioner and the second Respondent. Therefore, this is a fit case to exercise the power under section 482 of the Code of Criminal Procedure for quashing the First Information Report. Accordingly, we pass following order:

ORDER

- i) Rule is made absolute in terms of prayer clause (a) of the Petition.
- ii) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S. OKA, J.)

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