

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH : NAGPUR.**

CRIMINAL APPLICATION (apl) No. 826 of 2015

Syed Ayub Syed Yusuf

v.

State of Maharashtra & anr.

Office Notes, Office Memoranda of Coram
appearances, Court's orders or directions
and Registrar's orders.

Courts's or Judge's orders

**Coram : B.P .Dharmadhikari and
VM.Deshpande, JJ.**

Date : 01st MARCH, 2016.

By the present application, the applicant has prayed for quashing of F.I.R. bearing Crime No. 303/15 registered with police station Wadgaon Road, Yavatmal, for the offence punishable under Section 376 of Indian Penal Code.

Heard Shri Mir Nagman Ali, learned counsel for the applicant who submits that the non-applicant no.2/first informant is the wife of present applicant and the first information report is lodged by his wife due to pressure from the relatives.

Non-applicant no. 2/first informant is represented by Advocate B.H. Tekam. He invites our attention to the

reply filed on behalf of non-applicant no. 2 on affidavit. In paragraph 6 of the said affidavit it is specifically averred that the first information report was lodged due to pressure exercised on her by her relatives.

It is to be noted here that the marriage between the applicant and non-applicant no. 2 was performed on 09.5.2015, that is much prior to lodging of F.I.R. in question. It is also pointed out to this Court that applicant and non-applicant no. 2 are not now husband and wife in view of *Talaq* given by the applicant on 16.1.2016. Here, the Court wish to observe one fact that before lodging of the F.I.R. an application under Section 97 of Code of Criminal Procedure was moved by the applicant against the relatives of non-applicant no. 2 and the same was allowed.

Both the applicant and non-applicant no. 2 are today present in the Court. Non-applicant no.2 is present with her brother Azimur Khan. They are identified by Advocate Tekam. From the enquiry made by this Court with non-applicant no. 2 and her brother, they have admitted the factum of marriage of non-applicant no. 2 with the applicant much prior to lodging of F.I.R. Looking to the fact that the marriage between the applicant and non-applicant no. 2 was performed much prior to lodging of F.I.R. and now they are not residing as husband and wife, this Court is of the view that this is a fit case wherein inherent jurisdiction of this Court should be exercised in favour of the applicant. Accordingly, criminal application is allowed. F.I.R. bearing Crime No. 303/15 registered with police station Wadgaon

Road, Yavatmal, for the offence punishable under Section 376 of Indian Penal Code is hereby quashed and set aside. Application is allowed and disposed of.

JUDGE

JUDGE

/TA/