

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3017 OF 2016

Shri Hemraj Shobharam Lamkuche,
Age 29 Years, Occupation – Education
R/o.Plot no.13, Dwaraka Nagar,
Railway North Colony,
At and Post – Bhusawal,
Tal. Bhusawal, Dist. Jalgaon. **PETITIONER**
[Ori.Acused]

VERSUS

1. The State of Maharashtra
2. Varsha Chandrakant Yeole
Age 27 Years, Occupation – service,
Household
R/o.Shreeram Housing Society,
Plot no.59, Jamner Road,
Eastern side of Nahata Road,
Bhusawal, Dist. Jalgaon. **RESPONDENTS**
[Ori.Complainant]

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Mr.M.M.Bhokarikar, Advocate for the applicant
Mrs.P.V.Diggikar, APP for the Respondent/
State
Mr.S.S.Bora, Advocate for Respondent no.2.

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**CORAM: S.S.SHINDE &
K.K.SONAWANE, JJ.**

Date: 06.02.2017

JUDGMENT: (Per S.S.Shinde, J.):

1. Heard.

2. Rule. Rule made returnable forthwith, and heard finally with the consent of the parties.

3. This Application is filed with the following prayer:

b. The Regular Criminal Case no. 183/2014 filed in the Court of Hon. Judicial Magistrate, First Class, Bhusawal against this accused may kindly be quashed and set aside and accused may kindly be discharged.

4. Pursuant to the notices issued to the respondents, affidavit-in-reply is filed on behalf of respondent no.2. It is stated in para 3 of the said affidavit-in-reply that applicant herein filed application below Exh. 19 praying to send the matter for mediation. There was no consent by respondent no.2 for sending the matter for mediation since respondent no.2 was represented by the Public

Prosecutor. Para 4 to 10 of the said affidavit-in-reply reads thus:

4. I say and submit that, be that as it may, present deponent lodged the complaint in the year 2013 and now period of almost three years is over but trial is not completed.
5. I say and submit that, the deponent has moved forward in life and is now happily married. Deponent don't want to give details in respect of her marriage for the reasons that, the applicant / accused may try to approach her matrimonial relations and therefore deponent only submits that, now she is married.
6. I say and submit that, filing of the present complaint and the proceedings are not known to the husband of the deponent as well as his family members and it is becoming very difficult for the deponent to attend the court proceedings at Bhusawal as she is now married.

7. I say and submit that, in view of the above facts, the deponent says that, if the applicant is willing to tender an undertaking before this Hon'ble Court to the effect that, in future the applicant / accused will not harass the deponent, will not call the deponent, message the deponent, will not try to disturb her married life then and then only the deponent is ready to compound the matter so that she will be able to live her married life happily.
8. I say and submit that, if at all applicant / accused tenders the undertaking in the above format, the deponent is ready to give consent for quashing of the First Information Report and the entire criminal proceedings arising out of the First Information Report lodged by the deponent.
9. I say and submit that, consent of the deponent for quashing the criminal prosecution against the applicant / accused should not be used by the applicant / accused for

lodging any kind of proceedings civil / criminal against the deponent in future.

10. I say and submit that, I again reiterate that, I have never given any consent for amicable settlement of dispute before the court below and even today the deponent is ready for finally settling the criminal case in order to save her own marriage and married life.

5. In response to the affidavit-in-reply filed by respondent no.2, the applicant has given undertaking in the form of affidavit. Para 2 and 3 of the said affidavit reads thus:

2. I humbly submit that it is suggested by complainant, Varsha d/o Chandrakant Yeole that I should give the undertaking that in future I will not harass her, will not call her, message her, will not disturb her married life then only she is ready to compound the matter so that

she will be able to live her married life happily. Then only she would be ready to give consent for quashing FIR and entire criminal proceeding arising out of that FIR lodged by her. There are other illegal conditions also that would not be imposed by her not it is necessary to give undertaking regarding those submissions made by her.

3. I humbly submits that irrespective of the allegations made in original complaint and her reply given her in present proceedings. I undertake that-

In future I will not harass her as I have never harassed her earlier also. I will not call her. I will not message her. I will not disturb her married life. She may live her married life happily.

6. The learned counsel appearing for respondent no.2, on instructions, submits that in view of the undertaking given by the

applicant, respondent no.2 has no objection to quash the FIR and the entire criminal proceedings arising out of the First Information Report. He further submits that since respondent no.2 has moved forward in life and is now living happy married life and does not want to give details in respect of her marriage for the reason that the applicant / accused may try to approach her matrimonial relations and therefore respondent no.2 is unable to remain present. However, he submits that, father and mother of respondent no.2 are present in the Court and this Court may interact with them. On interacting with them, the applicant stated that it is his voluntary act to give an undertaking. So far respondent no.2 is concerned, father and mother of respondent no.2 are present. They are satisfied with the undertaking given by the applicant.

7. In view of the averments in the affidavit-in-reply filed by respondent no.2 that she is ready to give consent for quashing of the First Information Report and the entire criminal proceedings arising out of the First Information Report and in view of the undertaking given by the applicant and respondent no.2 is satisfied with the said undertaking, no fruitful purpose will be served by keeping the Regular Criminal Case No.183/2014 pending. Since respondent no.2 does not want to proceed further in the pending Regular Criminal Case No.183/2014, and she is not going to support the allegations in the FIR and consequently the prosecution case.

8. In that view of the matter, further continuation of proceedings of the Regular Criminal Case No.183/2014, would tantamount to sheer wastage of court time and also would result into abuse of process of the court.

9. In that view of the matter keeping in view the exposition of law in the case of ***Gian Singh Vs. State of Punjab & another***¹, Criminal Application deserves to be allowed and same is allowed. Rule is made absolute in terms of prayer clause-b.

[K.K.SONAWANE]
JUDGE

[S.S.SHINDE]
JUDGE

DDC

1 2012 AIR SCW 5333