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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.747 OF 2017**

Alan Noronha	... Petitioner
Vs.	
The State of Maharashtra and Anr.	... Respondents

Ms. Tripti R. Shetty for the Petitioner.
Mr. N.B. Patil, APP for the Respondent No.1.
Ms. Anisha Nassruddin Shaikh for the Respondent No.2 in person.

**CORAM : A.S. OKA &
ANUJA PRABHUDESSAI, JJ.**

DATE : 21st MARCH, 2017

P.C.

1 Rule. The second respondent appearing in person waives service. The second respondent was identified on earlier date by the Investigating Officer. The learned APP waives service for the first respondent.

2 The prayer in this Petition under Article 226 of the Constitution of India is for quashing the FIR registered for the offences punishable under Sections 376 and 420 of the Indian Penal Code. Admittedly, when the acts constituting alleged offences were committed, the second respondent/ first informant had attained majority and the allegations made in the FIR by the first respondent

show that she maintained consensual relationship with the petitioner. There is an affidavit filed by the second respondent in which she has stated that the marriage between herself and the petitioner was solemnised on 16th December, 2016 under the provisions of the Special Marriage Act, 1954 before the Marriage Officer at Bandra. A copy of marriage certificate was tendered along with an affidavit in terms of order dated 28th February, 2017. The Investigating Officer has made verification and has submitted a report. The report records that he visited the office of the Marriage Registration Officer at Bandra. From verification made by him he found that the marriage certificate produced by the parties is genuine. A report submitted by the Marriage Officer of Mumbai Suburban District dated 17th December, 2017 is also produced. The Police Officer has stated in the report that the petitioner and the second respondent are staying in the premises of the petitioner's friend and they plan to take premises on rental basis on their own.

3 Thus, the report submitted by the Investigating Officer shows that the petitioner and the second respondent have solemnised their marriage under the Special Marriage Act, 1954 on 16th December, 2016 and since then they are residing together as husband and wife.

4 As stated earlier, the second respondent and the petitioner maintained consensual relationship. In view of solemnisation of their marriage, now continuation of criminal proceedings will cause undue hardship to both of them. As stated earlier, this is not a case where the offence under Section 376 of the Indian Penal Code is made out. In view of the marriage, it cannot be said that the offence under Section 420 of the Indian Penal Code was attracted.

5 Accordingly, the Petition must succeed and we pass the following order :-

ORDER

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

“(a) That this Hon'ble Court be pleased to quash and or set aside the FIR bearing C.R. No.669 of 2016 registered with Malvani Police Station.”

- (ii) All concerned to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)