

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.350 OF 2016

Ishaq Muraribhai Ghanchi

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Mr. Dilip H. Shukla i/b. Mr. Suhas G. Shetty for the Applicant.

Ms R.M. Gadhvi, APP for the Respondent No.1-State.

Mr. Amogh Manjavkar i/b. Mr. Govind J. Prajapati for the
Respondent No.2.

CORAM : A.S. OKA &

SMT. ANUJA PRABHUDESSAI, JJ.

DATED: 30th JANUARY, 2017.

P.C.:-

Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. The Applicant and the second Respondent are personally present.

2. Prayer in this application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the First Information Report registered at the instance of the second Respondent for the offences punishable under sections 376 and 506 of the Indian Penal Code, 1860.

On the basis of the said First Information Report, charge sheet has been filed by the police.

3. The present Applicant is shown as an accused in the First Information Report as well as in the charge sheet. Our attention is invited to affidavit dated 10th September, 2015, a copy of which is annexed to page No.47 of the Application. Reliance is placed on certificate of registration of marriage, a copy of which is at page No.53 of this Application. These documents show that marriage solemnised between the Applicant and the second Respondent on 8th September, 2015 has been registered on 2nd November, 2015. The marriage certificate issued by Darul Uloom Shaida-E-Islam Yateem Khana at Thane is also annexed. Reliance is also placed on a true copy of Maharashtra Government Gazette dated 22nd /28th October, 2015 which shows that name of the second Respondent has undergone change from Ankita Prakash Singh to Maira Ishaq Ghanchi.

4. Birth certificate annexed at Exh'C' to the Application shows that a female child was born to the second Respondent on 8th March, 2015 at Mira Road, District-Thane. The name of the present Applicant is shown as father of the child in the birth certificate. The second

Respondent has filed an affidavit confirming that she is the wife of the Applicant and they have a daughter. She has recorded her no objection for quashing the criminal proceedings in her affidavit dated 16th January, 2017.

5. On the earlier date, the correctness of the documents annexed to the Application was verified by the Investigating Officer.

6. Today the learned counsel appearing for the Applicant has tendered additional compilation which contains a copy of letter of allotment and agreement for sale dated 25th January, 2016, under which Flat No.905 described therein situated at Mira Road, District-Thane has been acquired in the joint names of the Applicant and the second Respondent. To secure the future of the minor girl, the Applicant has taken a policy of Life India Corporation in the name of minor daughter for her benefit. The receipt of the premium is annexed to the compilation which shows that one time premium of Rs.2,90,062/- alongwith taxes has been fully paid by the Applicant. Total amount of Rs.3,00,940 has been paid by the Applicant. The learned counsel for the Applicant has stated that the said policy will mature for the benefit of minor on 27th January, 2034. He has stated

that amount invested in the said policy will give a return of more than Rs.5,00,000/- on the date of maturity. Thus, the Applicant has taken steps to secure the future of second Respondent as well as the minor daughter.

7. The Pan Card of the second Respondent annexed to the Application shows that her date of birth is 8th September, 1994. Perusal of the First Information Report and the charge sheet shows that from the year 2011, the Applicant and the second Respondent maintained consensual relationship. The First Information Report was filed making a grievance that though promised, the Applicant refused to marry with the second Respondent.

8. Now there are sufficient documents on record to show that there is a valid marriage solemnised between the Applicant and the second Respondent. As stated earlier, the Applicant has secured future of the second Respondent and the minor daughter by taking necessary steps.

9. Hence, in our view this is a fit case to exercise powers under Section 482 of the Code of Criminal Procedure, 1973. The

chances of conviction of the Applicant are very bleak. Continuation of criminal proceedings will adversely affect the Second Respondent as well as the minor daughter. Secondly, as observed earlier, the documents forming part of the charge sheet show that the Applicant and the second Respondent maintained consensual relationship. Hence, we pass the following order :-

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

“That this Hon'ble Court may be pleased to quash and set aside charge sheet (case) No.491 of 2015 through FIR/C.R. No.65 of 2015 registered by the Santacruz Police Station for the offences U/s. 376, 506 of the Indian Penal Code, 1860.”

11. All concerned to act on authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)