

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 697 OF 2016

Shri. Dilip Somu Rathod
Age : 21 years, Occ. Agriculture,
Residing at : Harale Mala,
Vita Tal : Khanapur,
District - Sangli- 416 416

.....Applicant
(Orig. Accused)

: V E R S U S :

1. The State of Maharashtra
Through Vita City Police Station
District : Sangli
(Copy to be served on Public
Prosecutor, High Court of
Judicature at Bombay)

2. Shri. Tejashree Vijay Babar
Age : 20 years, Occ. Education.,
Residing at : Sanjaynagar,
Indira Colony, Sangli
District- Sangli 416 416

.....Respondents

Mr. Umesh Mankapure, Advocate for the applicant.

Ms. M.H. Mhatre, APP for respondent no.1, State.

Mr. Abhijit P. Kulkarni, Advocate for respondent no.2,

original complainant.

Mr. Swapnil Ghongade, API, I.O. Shirala Police Station,
Sangli present.

CORAM :- SMT. V.K. TAHILRAMANI, &

SANDEEP K. SHINDE, JJ.

DATE :- 17th JULY, 2017.

ORAL ORDER (PER :- SMT. V.K. TAHILRAMANI, J)

1. Heard Mr. Mankapure for the applicant, Ms. Mhatre, Learned APP for State, Mr. Kulkarni for respondent no.2, the original complainant and the complainant who is present in person.

2. The applicant, original accused has filed this application under Section 482 Criminal Procedure Code ("Cr.P.C." for short) for quashing First Information Report No.118 of 2015 registered against him at Vita Police Station, District-Sangli for the offences punishable under Sections 376(1), 360 and 506 Indian Penal Code. The

case of the complainant i.e. respondent no.2 now is that, they have amicably settled the matter and they are living together and are going to marry. Respondent no.2 does not want to prosecute her complaint further. Respondent no.2 has filed an affidavit before this Court accordingly.

3. In the affidavit filed by the complainant, she has stated that there was a love affair between her and the applicant. Her family members were opposing the said love affair. Hence, she ran away with the applicant. Her parents lodged missing complaint. After some time, they thought it fit to return back to their native place. Her family members took her home and made her file the present FIR against her wishes. She has further stated that, there is ample evidence in the form of messages and photographs to show that there was a love affair between the applicant and her. The complainant has further stated in the Affidavit, that since she had eloped with the applicant, her family members have disowned her and presently she is residing with the applicant who is looking

after her educational expenses, as well as, her day-to-day needs. At present, she is studying law and her education is being supported and funded by the applicant. In addition, the complainant has stated that, the FIR was registered on account of coercion by her family members. She had told the Superintendent of Police, Sangli that her complaint was filed because of coercion/pressure from her family members and her family members are harassing and creating obstacles in her education and in her life. All this facts were reiterated by the complainant before us and she prayed that the case be quashed.

4. We are conscious that the Hon'ble Supreme Court in the judgment (**Gian Singh Vs. State of Punjab and another, 2012 10 SCC 303**) has laid down the guidelines for exercising the jurisdiction under Section 482 Cr.P.C. for quashing criminal proceedings involving non-compoundable offences and has laid down that in the cases of heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc., the

jurisdiction under Section 482 Cr.P.C. cannot be used to quash the prosecution even though the victim or victims family and the offender have settled the dispute. However, in view of the peculiar facts of the present case, we are inclined to exercise jurisdiction under Section 482 Cr.P.C. The applicant and respondent no.2 have stated on oath that there was a love affair between them since one and half year prior to FIR and it was known to the family members of respondent no.2. They stated that, they are intending to marry. It is the case of respondent no.2 that, she filed First Information Report on account of coercion and pressure from her family. The applicant and respondent no.2 are present in the Court and are identified by respective lawyers, as well as, the Investigating Officer, API Swapnil Ghongade who is presently posted at Shirala Police Station, Sangli. The applicant and complainant have reiterated the facts as stated in the affidavit. The applicant and respondent no.2 both are above 21 years and are major and able to understand the things. In fact, the Complainant is a law

student. In view of these peculiar facts, we are of the view that, no purpose will be served by continuing the prosecution of the applicant on the basis of the First Information Report filed by respondent no.2. Therefore, the application is allowed. First Information Report bearing No.118 of 2015 filed by respondent no.2 registered by Vita Police Station on 18th June, 2015 against the applicant and the proceedings relating thereto are quashed.

5. Application is allowed in above terms.

(SANDEEP K. SHINDE, J)

(SMT. V.K. TAHILRAMANI, J)