

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.918 OF 2017

Siddhu s/o. Yamanappa Sultanpur
& Anr.

....Applicants

V/s.

The State of Maharashtra

....Respondents

Mr. U.P.Warunjikar, Advocate for Applicants.

Mrs. S.V.Sonawane, APP for the Respondent-State.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 1ST SEPTEMBER, 2017.

PC. :-

At the outset, the learned counsel for the Applicants seeks leave to amend the cause-title of the above Criminal Application so far as the address of the Applicant No.1 is concerned and to substitute the word 'Solapur' by the word 'Karnataka'. Amendment to be carried out forthwith.

2 The above Criminal Application is filed for quashing of the FIR being C.R.No.190 of 2017 registered with the Vikhroli Police

Station on 6.7.2017 for the offence punishable under Section 376 of the IPC. The above Application has been filed by the First Informant, who is the Applicant No.2 and the accused who is the Applicant No.1. The parties have amicably arrived at a settlement which is evidenced by the averments made in paragraphs 5 and 7 of the above Criminal Application, which are re-produced hereunder:

“5 In such circumstances, the Applicants submit that the Applicant Nos.1 and 2 both approached the Senior Inspector of Vikhroli Police Station at Mumbai. However, it was given to understand that even though the Applicant No.2 is not willing to proceed further, the Police will have to carry out the investigation and file a charge sheet in the present case. The Applicant No.2 informed the police authorities that she does not want to prosecute further as the marriage has been performed and the child has been delivered, the police authorities without expressed their inability to accept the said request. In view of the same, left with no option, interference of this Court is required.

7 The Applicants submit that initially the parents of the present Applicants herein were not ready to allow the Applicant No.1 to marry with the Applicant No.2. However, later on the marriage has been performed. In view of the same, no purposed will be served by continuing the said prosecution. Even otherwise, the Applicants submit that in view of the peculiar facts and circumstances, it is necessary that the ex-ordinary jurisdiction of this Hon'ble Court under Section 482 of Cr.P.C. be invoked.

3 The Applicants have performed their marriage on 31.7.2016 and the same has been registered before the Registrar of Marriages, Bijapur on 17.8.2017 in respect of which certificate has been issued by the said Marriage Registrar which is at Exhibit 'D' to the above Application. The Applicants are personally present in the Court. The Applicant No.2 who is the first informant is personally present in the Court. She is also identified by her Election Identity Card bearing no.SAZ0553461. Her name mentioned in the said Identity Card is the same as appearing in the cause-title. When put in the box and queried, she states that she has filed the above Application for quashing of the FIR as she does not want to proceed with her complaint. She further states that certificate at Exhibit 'D' is the marriage certified issued by the Marriage Registrar, Bijapur, Karnataka in respect of her marriage with the Applicant No.1. Applicant No.1 is also personally present in the Court. He is identified by the learned counsel Mr. Warunjikar. He is also identified by his Adhar Card No.7912 8915 2081. When put in the box and queried, he states that he has filed the above Application for quashing of the FIR as he has married the first informant.

4 The aforesaid facts, therefore, disclose that in view of the marriage that has been taken place between the Applicant Nos. 1 and 2, no useful purpose would be served by proceeding with the subject FIR. Having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The above Criminal Application is accordingly allowed and made absolute in terms of prayer clause (a).

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)