

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

CRIMINAL APPLICATION NO. 1362 OF 2016

Mr. Ashwin Popatbhai Darji ..Applicant

v/s.

Mrs. Neelam Ganesh Dalvi & Ors. ..Respondents

Ms. Sarika Mhatre for the Applicant.

Ms. Neelam Dalvi, Respondent No.1 present in person.

Mrs. S.V.Sonawane, APP for the Respondent No.2.

Mrs. Pranali Darji, Respondent No.3 present in person.

**CORAM : A.S.OKA & ANUJA PRABHUDESSAI, JJ.
DATED : 2ND FEBRUARY, 2017**

P.C.

1. Rule. The first respondent and the third respondent waive service. The learned Counsel appearing for the second respondent waives service. Forthwith taken up for final disposal

2. The prayer in this application under Section 482 of Code of Criminal Procedure (for short Cr.P.C.) is for quashing the First Information Report registered for the offences punishable under Section 366(A), 376 of the Indian Penal Code and Sections 4 and 8 of

Protection of Children from Sexual Offences Act, 2012. The third respondent is the victim of the alleged offence. The first respondent is the mother of the victim, who is the first informant. The prayer for quashing is sought on the basis of settlement between the applicant and the third respondent. It is pointed out in the petition that the third respondent attained majority on 25th November, 2015. It is alleged that the marriage between the third respondent and the petitioner was solemnized on 1st December, 2015 in accordance with the Hindu Vedic Rites. It is also pointed out that on 2nd October, 2016 the third respondent has given birth to a male child. There are affidavits filed to the aforesaid effect by the first respondent as well as the third respondent. The first respondent has stated in her affidavit that the applicant along with the third respondent are happily staying together at their matrimonial house and are leading a very happy married life.

3. The learned APP has produced for the perusal of the Court the report dated 1st February, 2017 submitted by the Senior Inspector of Police, Santacruz Police Station. The report records that the police have verified that the marriage between the applicant and the third

respondent was solemnized on 1st December, 2015 in Vishveshwar Mandir, Nirmal Nagar, Bandra (East), Mumbai and accordingly, the marriage has been registered on 22nd June, 2016 in the Office of the Marriage Registrar. It is also confirmed that the couple is blessed with a son on 2nd October, 2016 and entries to that effect have been made in the concerned office of the Municipal Corporation.

4. Thus, it appears to us that the applicant and the third respondent, who is the victim of the offence, got married on 1st December, 2015 and thereafter, they are living together and that they are blessed with a son.

5. In view of these events, the continuation of criminal proceedings will cause undue harassment to the applicant and to the third respondent. No purpose would be served by continuing the prosecution. The chances of conviction are very bleak. It appears from the chargesheet that the applicant and the third respondent had a love affair.

6. Considering all the aforesaid factual aspects, this is a fit case to exercise the powers under Section 482 of Cr.P.C. Accordingly, we pass the following order:

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

“This Honourable Court may be pleased to quash the F.I.R.No. 254/2014 in the Sp. Case No.252/2014, registered with Santacruz Police Station, u/s. 366(A), 376 IPC and Section 4 and 8 of the Protection of Children from Sexual Offences Act, 2012, by the Respondent No.1 Mrs. Neelam Ganesh Dalvi.”

- ii) We clarify that the chargesheet filed on the basis of the aforesaid First Information report shall also stand quashed and set aside.

(ANUJA PRABHUDESSAI, J.)

(A.S.OKA, J.)