

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL APPLICATION NO. 365 OF 2018

Saiyed Najer S/o Saiyed Sandhu,
Age 36 Years, Occ. Business,
R/o. Limbe Jalgaon, Tq. Gangapur,
District Aurangabad

APPLICANTS

V E R S U S

[1] The State of Maharashtra, Through
Investigation Officer, Waluj
Police Station, Taluka Gangapur,
District Aurangabad

RESPONDENTS

[2] Sahikh Mahemood Shaikh Ameer,
Age 51 years, Occ. Agriculture,
R/o. Turkabad, Taluka Gangapur,
District Aurangabad

Mr. R.V. Gore, Advocate for the applicants
Mrs. V.S. Choudhary, APP for respondent No.1/State
Mr. G.J. Pahilwan, Advocate for respondent No.2

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**CORAM : T.V. NALAWADE AND
SMT.VIBHA KANKANWADI,JJ.**

DATE : 21st SEPTEMBER, 2018

ORAL JUDGMENT [PER : T.V. NALAWADE, J.] :

Rule. Rule made returnable forthwith. By consent of both the parties, this proceeding is taken up for final hearing. Heard both the sides.

2. This proceeding is filed under Section 482 of Cr.P.C. for quashing of the proceeding bearing R.C.C. No.235/2009 pending in the Court of J.M.F.C. Gangapur, District Aurangabad for the offences punishable under Sections 363, 360 (A) read with Section 34 of Indian Penal Code.

3. During argument of learned counsel for the applicant, attention this Court was drawn to the Judgment delivered by this Court in Criminal Application No. 3030/2009 [Saiyed Najer S/o Saiyed Sandhu] dated 24.11.2009. This Court has carefully gone through paragraph No.7 of the said Judgment, which reads as under :-

"7. Considering the submissions advanced across the bar and after perusing the papers of investigation it is clear that statement of Rizwana came to be recorded by the Investigating Officer. The said statement discloses that Rizwana had love affair with the applicant since long prior to the date of incident. They used to meet at the residence of the matrimonial aunt of Rizwana. On the fateful date i.e. on 10.0.4.2009, as per the

statement of Rizwana, she had invited/called the applicant in the field situated behind her house and they have already planned to elope with each other. According to Rizwana, as per the planning, the applicant came there and she accompanied him from where first they went to Dhule and thereafter they went to Surat where they got married. According to Rizwana, she is major and 19 years old."

This Court had granted relief of quashing of the F.I.R. in CR No.40/2009 in which the aforesaid case is filed by the police. It appears that the Charge-Sheet was already filed, but it was not brought to the notice of this Court and the proceeding was not amended. On this circumstance, the present proceeding is filed. In view of the contents of paragraph No.7 of the Judgment, referred above, in Criminal Application No.3030/2009 dated 24.11.2009, this Court is of the opinion that the relief needs to be granted in favour of the applicant. In the result, application is allowed in terms of prayer clause "B". Rule made absolute in above terms.

[SMT.VIBHA KANKANWADI, J.]

[T.V. NALAWADE, J.]