

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 778 OF 2010

Gangaram s/o. Bhanudas Mache,
Age 50 years, Occu. Agri.,
R/o. Ghodegaon, Tq. Shrigonda,
Dist. Ahmednagar

....Petitioner.

Versus

1. The State of Maharashtra,
Through Police Station Officer,
Kotwali Police Station,
Ahmednagar, District Ahmednagar.

2. Sangeeta Bandu Kale,
@ Sangeeta Gangaram Mache,
Age 45 years, Occu. Labourer,
R/o. Eknathnagar, Kedgaon,
Ahmednagar.

....Respondents.

Mr. N.V. Gaware, Advocate for petitioner.

Mrs. V.S. Choudhary, APP for respondent No. 1/State.

Mr. A.K. Tiwari, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
K.L. WADANE, JJ.**

DATED : July 30, 2018.

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

1. The proceeding is filed under section 482 of Criminal Procedure Code and also under Articles 226 and 227 of Constitution of India for relief of quashing of F.I.R. No. 408/2009

registered with Kotwali Police Station, Ahmednagar for the offence punishable under section 376 of Indian Penal Code. Both the sides are heard.

2. The submissions made and the record show that the first informant, respondent has filed affidavit in reply dated 30.3.2010 showing that she has consented, given no objection for granting the relief claimed.

3. The submissions made and the record show that it was contended by the prosecutrix that she had virtually cohabited with the applicant for about 16 years. Her marriage had taken place 20 to 25 years prior to the date of F.I.R. and it is her contention that after taking divorce, she was living with the present applicant. It is her contention that they had stayed together up to 8-10 days prior to the date of F.I.R. It is her contention that there was promise of marriage, but the applicant did not keep the promise and that is how she was deceived and aforesaid offence is committed by the present applicant.

4. In view of the contents of the affidavit in reply filed by the prosecutrix, this Court holds that other circumstances

need not be discussed, it will be futile exercise if the case is filed and the present applicant is made to face the trial. In any case, the prosecutrix will not be given evidence against the applicant and there are more circumstances as mentioned above. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'. Rule is made absolute in aforesaid terms.

[K.L. WADANE, J.]

[T.V. NALAWADE, J.]

ssc/