

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.249 OF 2017

Mr. Chandrashekhar Shetty.] ... Petitioner

Versus

1. State of Maharashtra,]
2. Renuka Dudhnath Bind.] ... Respondents

Mr. Pradip D. Gavali for Petitioner.

Mrs. P. P. Shinde, APP for State – Respondent No.1.

Mr. A. M. Deshpande, ASI attached to Rabale Police Station, present.

Ms. Renuka Dudhnath Bind, Respondent No.2, present in person.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 15 MARCH, 2018

P. C. :-

1. The above Petition has been filed for quashing of the proceedings being RCC No.1010909 of 2015 pending in the Court of JMFC at Vashi. The said proceedings have arisen out of the registration of the FIR being C.R.No.50 of 2015 with the Rabale Police Station for the offences punishable under Sections 406, 376 and 313 of the IPC. It seems that the Respondent No.2 herein and the Petitioner were in a relationship as a result of which the cause for

filing the FIR for the offences alleged has arisen. The FIR has been registered on 09/02/2015. The parties, thereafter, have married in Sainath Vivah Karyalay on 23/03/2015. A certificate dated 23/03/2015 to that effect was issued by Sainath Vivah Karyalay which is part of the charge-sheet. The parties have also got their marriage registered on 05/06/2015 before the Special Marriage Officer, District Thane. A certificate to that effect bearing no.1189/2015 has been issued by the office of the said Special Marriage Officer, Thane. The said certificate has been signed by the 3 witnesses namely Vasant G. Shetty, Santosh R. Gowda and Krishna D. Gowda. The said certificate has also been signed by the Petitioner and the Respondent No.2 at the place earmarked for them.

2. During the course of investigation, the Investigating Officer, it seems, has approached the office of the Special Marriage Officer, Thane, to verify the factum of the marriage being registered on 05/06/2015 as disclosed by the certificate. A report to that effect dated 03/04/2017 has been addressed by Mr. H. B. Kalsekar, API attached to the Rabale Police Station, Navi Mumbai, to the Government Pleader, High Court, Appellate Side, Mumbai. In the said

report, it is mentioned that during the enquiry, it was revealed from the office of the Special Marriage Officer that the said marriage has been registered on 05/06/2015 under Entry No.1189/2015. Hence, the fact of the Petitioner and the Respondent No.2 having married has overtaken the FIR which has been lodged on 09/02/2015. If that be so, the factual basis has undergone a drastic change as one prevailing on 09/02/2015 when the FIR was lodged.

3. The Respondent No.2 is personally present in Court. She is identified by the learned Counsel Mr. Pradip D. Gavali for the Petitioner as being the wife of the Petitioner. She is also identified by her Aadhar Card bearing No.8564 6514 4089. When put in the box and queried, she accepts the factum of the Petitioner and she having got married and the said marriage being registered with the Special Marriage Officer, Thane. The Petitioner Chandrashekhar Shetty is also personally present in Court who is identified by his Aadhar Card bearing No.8616 2937 2568. When put in the box and queried, he accepts the factum of the marriage between him and the Respondent No.2 having taken place. He further states that both he and the Respondent No.2 are living together as husband and wife. Insofar as

the situation which has arisen on account of the marriage having taken place, which, as indicated above, has changed the factual basis after the lodgment of the FIR, it would be apposite to refer to the Judgments of the Apex Court in the cases of Gian Singh Vs. State of Punjab & Anr. reported in (2012) 10 SCC 303 and Narinder Singh & Ors. Vs. State of Punjab & Anr. reported in 2014 AIR SCW 2065. The Apex Court has, in the said Judgments, opined that the proceedings wherein no useful purpose would be served, are required to be terminated by quashing and setting aside the said. In the instant case, though one of the offences alleged against the Petitioner is the one under Section 376 of the IPC, in view of the facts which have been stated in the instant order, in our view, no useful purpose would be served by continuing the proceedings. In the special facts and circumstances of the case, the Petition is required to be allowed and is accordingly allowed in terms of prayer clause (bb).

4. In view of the fact that the machinery of this Court is utilized for settling the matter, the Petitioner to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry.

5. The photocopies of the certificate issued by Sainath Vivah Karyalay as also the letter dated 03/04/2017 addressed by API Kalsekar to the Government Pleader are taken on record and marked 'X' and 'Y' for identification.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)