

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.506 OF 2017

Sanjay Prakash NaikwadeApplicant
V/s.
The State of Maharashtra & Anr.Respondents

Mr. Pramod Gokul Kathane, Advocate for Applicant.
Mrs. Anamika Malhotra, APP for the Respondent-State.

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

DATE :- 19TH JANUARY, 2018.

PC. :-

The victim Prajakta Sanjay Naikwade after registration of the FIR by her mother, i.e., the Respondent No.2 herein has turned major and is today 20 years of age. The learned counsel for the Applicant, Shri Kathane seeks deletion of the Respondent No.2 and in turn, seeks impleadment of the victim Prajakta Sanjay Naikwade as party Respondent to the above Application. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the FIR being No.1/2015 registered with the Kurundwad Police Station, Kolhapur for the offences punishable under Sections 363A and 366 of the IPC. The said FIR was registered

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by the mother of the victim, one, Prajakta Sanjay Naikwade and the mother being Pushpa Mahavir Taral. The gravamen of the allegations in the FIR is as regards the alleged kidnapping of the victim by the Accused and keeping her in confinement. The above Criminal Application is premised on the fact that the victim and the accused have married on 5.1.2015 and that they have child namely Bhakti who is about 1 ½ years old being born on 6.1.2016. Birth certificate of the child Bhakti is part of the papers collected during the course of the investigation. We have perused the FIR being No.1 of 2015. Prima-facie, we do not find any ingredients of Section 363A from what has been stated in the FIR. How the said provision could, therefore, be invoked, therefore, begs an answer.

3 Be that as it may, the victim, i.e., Prajakta Sanjay Naikwade, i.e., the wife of the Accused has filed an affidavit wherein in paragraph 4, she has stated that her mother has filed the FIR on account of her dislike for her husband Sanjay and also on account of societal pressure. In paragraph 5, she has stated that both she and the accused have married and are co-habiting together and out of the said marital relationship that a daughter Bhakti has been born to them. She has further stated that on account of the FIR, an element of uncertainty has crept into their lives which is affecting both she

and the accused. Apart from the statements in the Affidavit , we have also perused the statement of the victim Prajakta, which was recorded on 22.9.2016 by the Police as also the statement recorded under Section 164 of the Cr.P.C. on 30.3.2017. Both these statements ex-facie disclose that the victim does not support the case of the prosecution. The gist of the said two statements is that the victim has of her own free will and volition accompanied the accused and that they have married and out of the said wed-lock, child Bhakti has been born to them.

4 In our view, having regard to the aforesaid facts as also having regard to the dictum as laid down by 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 be served in proceeding with the FIR. The above Criminal Application is required to be allowed and is, accordingly, allowed in terms of prayer clause (a).

5 The Applicant to pay costs of Rs.5,000/- to be deposited with the Maharashtra Legal Aid Fund within a period of four weeks from date. Receipt to be obtained and filed in the Registry.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)