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

CRIMINAL WRIT PETITION NO.2834 OF 2018

Sanjit Bare	...Petitioner
Versus	
State of Maharashtra and Ors.	...Respondents

Mr.V.D.Upadhyay, for the Petitioner.

Mrs.A.S.Pai, A.P.P for the Respondent-State.

Ms.Leena Shah i/b Shah and Furia Associates, for the Respondent No.2.

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.***

DATE : 11th JULY, 2018

P.C. :

1. At the outset, leave to amend is granted so as to incorporate a reference of the charge sheet in prayer clause (a). Amendment to be carried out forthwith.

2. The above Writ Petition has been filed for quashing of the F.I.R. being C.R. No.40 of 2017, registered with the Gorai Police Station,

Mumbai, for the offences punishable under Sections 363, 376 of the Indian Penal Code and Section 3(a), (c), 4, 5 (j-2), 6 of Protection of Children from Sexual Offences Act (POSCO).

3. The FIR in question was lodged by the victim (name withheld) (hereinafter referred to as victim – ‘X’). The quashing of the charge sheet is sought on the ground that post registration of the FIR, the Petitioner herein i.e. the accused and the victim – ‘X’ have got married on 19th June, 2018 at Shree Ram Mandir, Nirmal Nagar, Khar (E), Mumbai – 400 051. The said fact is comprised in the Declaration of the Marriage dated 19th June, 2018, executed by the Petitioner and the victim – ‘X’. The victim – ‘X’ has filed an affidavit dated 22nd June, 2018 affirmed before S.K.Shetty, Notary Government of India having his office at 8, 'Prakash' Bestant Street, Santacruz (W), Mumbai – 400 054. In the context of the relief sought in the above Petition, paragraphs 3 and 4 of the affidavit are material and are reproduced herein under :-

“3. I states that now I and the Petitioner have sorted out all their disputes and differences and have amicably decided to settle the matter.

4. I further state that I have no objection to quash the FIR

being FIR No.40/2017.”

4. The First Informant i.e. the brother of the victim – ‘X’ has also filed an affidavit. He has also vide paragraph 4 of the said affidavit given his no objection for quashing of the FIR. The Respondent No.2 is personally present in Court. He is identified by the learned Counsel Ms.Shah. He is also identified by his Election Card bearing No. UFG7230006. When put in the box and queried, he states that victim – ‘X’ and the Petitioner have got married and out of the said wedlock they have a child. He further states that he does not desire to proceed with the case in question, in view of the subsequent development.

5. The victim – ‘X’ is also personally present in Court. She is also identified by the learned Counsel Ms.Shah. She is also identified by her Aadhaar Card. When put in the box and queried, she states that she has married the Petitioner and that she and the Petitioner are residing together and have been blessed with a girl child.

6. The mother of the victim – ‘X’ – Shubhangi Pawar is also

personally present in Court. She is also identified by her Aadhaar Card bearing No.2013 4560 9211. When put in the box and queried, she accepts the factum of the marriage of the victim – 'X' with Sanjit. She states that both are staying together and at times she visits her.

7. The Petitioner- Sanjit Bare, is personally present in Court. He is identified by the learned Counsel Mr.Upadhyay. He is also identified by his Pan Card bearing No.BEWPB8958P. When put in the box and queried, he accepts the factum of the marriage having taken place between him and victim – 'X'. He assures the Court that he would continue to reside with the victim – 'X'.

8. The father of the Petitioner, Ganpat Shivram Bare is also personally present in Court. He accepts the factum of marriage having taken place between the Petitioner and victim – 'X'. He states that both are residing together and he has no grievance as regards the said marriage.

9. Though amongst the offences alleged against the Petitioner are ones under the POCSO, having regard to the facts as aforesaid, the

continuation of the proceedings would unnecessarily lead to mental agony and stress to the parties, which is not desirable especially having regard to the fact that they have got married and also blessed with a child.

10. We, therefore, in the special facts and circumstances of the present case, deem it appropriate to exercise our writ jurisdiction under Article 226 of the Constitution of India to quash and set aside the F.I.R. being C.R. No.40 of 2017.

11. The above Criminal Writ Petition is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a).

12. The above Criminal Writ Petition is accordingly disposed of.

(REVATI MOHITE DERE, J.)

(R. M. SAVANT, J.)