

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1122 OF 2017**

Akash Sunilkumar Malik & Anr

..Applicants

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. M. M. Pillai for the Applicants

Mr. K. V. Saste Addl PP for the Respondent State

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

DATE : 20th APRIL, 2018

P.C.

1 At the outset, the Learned Counsel for the Applicants seeks leave to amend so as to join Ms Dimple Malik as Respondent No.2 in the above Criminal Application. Leave granted. Amendment to be carried out forthwith.

2 The above Criminal Application has been filed for quashing of the FIR registered with the Samata Nagar Police Station being C. R. No.109/17 for the offences alleged under Section 376(1), 417, 506, 34 of the IPC. The registration of the FIR has arisen in view of the fact that the first informant and the Applicant No.1 were in a relationship, however the cause for the allegations have been mentioned in the said FIR. It is not necessary to dilate further on facts in view of the fact that the Applicant No.1 has married to the first informant i.e. Dimple Pravinchandra Gajaria on 15-6-2017. A certificate has accordingly being issued by Arya Samaj Dayanand Bhavanm Sadar,

Nagpur. The Applicant No.1 and the Respondent No.1 have also got their marriage registered with the Registrar of Marriage , Mumbai Municipal Corporation. The said marriage certificate is dated 8-9-2017 and is annexed to the above Criminal Application as Exhibit-D.

3 The Respondent No.2 Dimple Gajaria i.e. the first informant is personally present in Court. She is identified by the Applicant No.1 Mr. Akash Malik who is also personally present in Court, as being Dimple Gajaria. She is identified by her Adhar Card bearing No.614474962082. When put in the box and queried the Respondent No.2 states that both she and the Applicant No.1 have married and are residing together.

4 The Applicant No.1 as indicated above is also personally present in Court. He is identified by the Learned Counsel Mr. Pillai. He is also identified by his Adhar Card bearing No.807134269326. When put in the box and queried he also accepts the factum of marriage having taken place between him and the Respondent No.2.

5 Though offence alleged against the Applicant No.1 is one under Section 376 of the IPC, which we would have otherwise been slow and circumspect to quash in the facts and circumstances as above wherein the Applicant No.1 and the first informant have married and are residing together.

We are of the view that the exercise of our jurisdiction under Section 482 of the CrPC. is warranted. The continuation of the proceedings in facts of the present case would be unnecessary and futile. The above Criminal Application is therefore required to be allowed and is accordingly allowed in terms of prayer clause (a). The above Criminal Application is accordingly disposed of.

6 The Applicant No.1 to deposit costs of Rs.5000/- with the Kirtikar Law Library within 6 weeks from date. Receipt to be obtained and filed in the registry.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]