

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 142/2018

(SUNIL NANDLAL AGRAWAL & ANOTHER VERSUS STATE OF MAHARASHTRA, THR. PSO, PS
 ASEGAEON, AMRAVATI)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

Shri P.V. Navlani, counsel for the applicants.
 Shri A.M. Joshi, A.P.P. for the non-applicant.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : MARCH 19, 2018.

By this criminal application, the applicants seek the quashing and setting aside of the first information report registered against the applicant no.1 for the offence punishable under Section 376, 506 read with Section 34 of the Penal Code.

The applicant no.2 had lodged a complaint against the applicant no.1, with whom her father was working as a labourer in his agricultural field. The applicant no.1 is an agriculturist, on whose field the father of the applicant no.2 was working as a labourer and also taking some crops on *batai* basis. It is the case of the applicants that the applicant no.2's marriage was fixed and since some funds were required for the performance of her marriage, the applicant no.2 along with her father had been to the applicant no.1, with whom the father of the applicant no.2 was working, to seek some advance/loan for the performance of her marriage. It is stated that the applicant no.1 had refused to lend any amount to the father of the applicant no.2 for the performance of her marriage. It is the case of the applicant no.2 that in a fit of rage, the father of the applicant no.2 went to the police station along with the applicant no.2 to lodge a report. It is stated that the report was lodged by the applicant no.2 at the behest of her father

with a view to teach a lesson to the applicant no.1. The applicant no.1 is 62 years of age and according to the applicants, the report was lodged by the applicant no.2 only because he had refused to lend money to the father of the applicant no.2 for the performance of her marriage.

With a view to verify the statements made in the criminal application, we had interviewed the applicant no.2 in the Chamber. The applicant no.2 stated that after her marriage was settled, she had accompanied her father to the house of the applicant no.1 with a view to secure some advance/loan. It is stated that since the applicant no.1 had refused to lend money to the father of the applicant no.2, in a fit of rage, he took the applicant no.2 to the police station to lodge a report. It is stated by the applicant no.2 that the marriage that was settled at the relevant time is cancelled from the groom's side and now her marriage is again sought to be re-fixed with some other person. The applicant no.2 prayed that the first information report registered against the applicant no.1 should be quashed and set aside or else the person with whom she is now sought to be married would again refuse to marry her.

From the statements made by the applicant no.2 in the Chamber, we found that she was telling the truth. She had also told us that her father is addicted to drinking and after getting annoyed by the refusal on the part of the applicant no.1 to lend the money for her marriage, he had filed the report against the applicant no.1. The applicant no.1, who is present in the Court today, appears to be an old man. We have also perused the medical report and the chemical analyzer's report. The said reports do not support the case of the prosecution that is based on the complaint lodged by the applicant no.2. Since the applicant no.2 is desirous

of getting married and her marriage is almost settled, it would be necessary to quash the first information report registered against the applicant no.1 with a view to prevent the abuse of the process of the Court and to secure the ends of justice. Hence, by relying on the law laid down in the case of *Narinder Singh Versus State of Punjab*, reported in (2014) 6 SCC 466, the first information report registered against the applicant no.1 is liable to be quashed and set aside as the prosecution is not likely to result in the conviction of the applicant no.1.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicant no.1 for the offences punishable under Sections 376, 506 read with Section 34 of the Penal Code is hereby quashed and set aside subject to payment of a sum of Rupees Ten Thousand to the High Court Legal Services Sub Committee, Nagpur within one week.

Order accordingly. No costs.

JUDGE

JUDGE

APTE