

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION [APL] NO.166 OF 2018

[Kuldip alias Lucky Chittaranjan Dube .vs. State of Maharashtra and one]

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

Court's or Judge's orders

Shri D.M. Upadhye, counsel for the applicant,
Shri S.B. Bissa, APP for non-applicant no.1.

.....

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

DATED : MARCH 09, 2018.

By this criminal application, the applicant and the non-applicant no.2 seek the quashing and setting aside the First Information Report registered against the applicant for the offences punishable under sections 363, 366, 366-A of the Penal Code.

A report was lodged by Laxmikant Shrivastav, the father of the non-applicant no.2, who is now no more, on 7.9.2014, that the applicant had forcibly taken his daughter viz. Non-applicant no.2 by falsely promising her that he would marry her. It is alleged in the report that on 4.9.2014, the non-applicant no.2 went to the Mahila Mahavidyalaya where she was studying and did not return home as usual at 1.30 pm. It is stated that she had switched off her mobile phone and on enquiry it was revealed to the complainant that the applicant, who was earlier working as a driver, had forcibly removed the non-applicant no.2-his daughter, by promising to marry her. It is stated that on the basis of the said complaint, the First Information Report was registered against the applicant for the offences punishable under sections

363, 366 and 366-A of the Penal Code.

The applicant, the non-applicant no.2 and the mother of the non-applicant no.2 are personally present in the Court today. The father of the applicant is also present in the Court. It is stated by the applicant and the non-applicant no.2 that the applicant had not forcibly removed the non-applicant no.2 on the false promise to marry and he has indeed married her and a son is born from the wedlock. A child aged about one year is brought in the Court by the applicant and the non-applicant no.2. It is stated by the non-applicant no.2 that even before the police, immediately after the incident she had stated that she was not forcibly taken away by the applicant and that she had married the applicant as she was not permitted to do so by her family members. It is stated that the father of the non-applicant no.2, who had lodged the report, is no more. The mother of the non-applicant no.2 is present in the Court today. We have asked her whether the matter is compromised between the applicant and the non-applicant no.2. The mother of the non-applicant no.2 has stated that the applicant and the non-applicant no.2 being married, she desires that the First Information Report registered against the applicant should be quashed, as the applicant and the non-applicant no.2 are residing happily with their son. In this respect, an affidavit of the non-applicant no.2 that she is married with the applicant and a child is born from the wedlock is tendered in the Court. The same is accepted on record and marked as Exh.'Z'.

In the circumstances of the case, it would be necessary to quash and set aside the First Information Report registered against the applicant. It appears that the applicant and the non-applicant no.2 have married and a son is born from the wedlock. It could be possible that the non-applicant no.2 was a little below

the age of 18 years at the relevant time, but today the non-applicant no.2 is 20 years of age. The applicant and the non-applicant no.2 appear to be residing happily with each other. Since the complainant is no more and his widow does not wish to pursue the matter against the applicant on the basis of the complaint lodged by her husband, it is most unlikely that the prosecution would result in the conviction of the applicant. Hence, with a view to prevent the abuse of process of the Court and to secure the ends of justice, it would be necessary to quash the First Information Report, the chargesheet and the proceedings in Criminal Case No.76/2018 by following the law laid down by the Hon'ble Supreme Court in the judgment in the case of **Narinder Singh .vs. State of Punjab and others**, reported in **(2014) 6 SCC 466**.

Hence, for the reasons aforesaid, the Criminal Application is allowed. The F.I.R., the chargesheet and Criminal Case No.76/2018 are hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE