

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

CRIMINAL APPLICATION (APL) NO. 260/2018

(AKASH ANAND DANGORE & OTHERS **VERSUS** THE STATE OF MAHARASHTRA, THR. PSO PS
 BALLARSHAH, DISTRICT CHANDRAPUR & ANOTHER)

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

Court's or Judge's orders

Shri M.V. Rai, counsel for the applicants.
 Shri A.M. Joshi, A.P.P. for the NA-1.
 Ms S.B. Khobragade, counsel for the NA-2.

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

DATE : MARCH 27, 2018.

By this criminal application, the applicants have sought for the quashing and setting aside of the first information report registered against them for the offences punishable under Section 376(2)(n), 354A, 341, 509, 373 and 506B of the Penal Code and the proceedings arising therefrom.

It is not in dispute that initially in the year 2016, there was a friendly relationship between the applicant no.1 Akash and the non-applicant no.2-Shahin but within a short time, the relationship between them culminated into a love affair. The applicant no.1 and the non-applicant no.2 were involved in physical relationship. A report was lodged by the non-applicant no.2 in Ballarshaah police station on 04.12.2017 that the applicant no.1 had demanded sexual favour from her on the false promise of marriage and had refused to marry her. It is alleged in the complaint that when the non-applicant no.2 refused to indulge in sexual intercourse with the applicant no.1, he would threaten the non-applicant no.2 to commit suicide and also to kill her. On the basis of the complaint lodged by the non-applicant no.2, a first information report was registered against the applicant no.1. Since

the applicant nos.2 and 3 had dropped the non-applicant no.2 to a friend's house in the evening hours, she had made the allegations against them also. On the basis of the complaint lodged by the non-applicant no.2, the first information report was registered against all the applicants, viz. the applicant no.1 and his two friends, the applicant nos.2 and 3 for the offences punishable under Section 376(2)(n), 354A, 341, 509, 373 and 506B of the Penal Code. The applicants have sought for the quashing and setting aside of the first information report.

The non-applicant no.2 has filed an affidavit-in-reply on 20.03.2018. It is stated in the affidavit-in-reply that a very close friend of the non-applicant no.2, viz. Sanchita Kasturwar, had asked the non-applicant no.2 to lodge a report against the applicant no.1 as he was not ready to marry with the non-applicant no.2. It is stated in the affidavit-in-reply that only because of the advice and pressure by her friend Sanchita Kasturwar, the non-applicant no.2 had levelled serious allegations against the applicant no.1 and had also roped in the applicant nos.2 and 3 in the complaint. The non-applicant no.2 has stated in her affidavit-in-reply that the complaint was lodged by her due to the ill-advice by Sanchita Kasturwar and since she was involved in a love affair with the applicant no.1 and he was not willing to marry her.

The non-applicant no.2 is personally present in the Court today. We have talked with the non-applicant no.2 for some time in the Chamber. The non-applicant no.2 has stated that there was an affair between her and the applicant no.1 and in view of the affair, she was involved in physical relationship with the applicant no.1. She stated that she would be leaving Ballarshah, where the applicant no.1 resides, along with her family for settling in Pune so that she should not come in contact with the applicant no.1 in

future. She had stated that she is also not desirous of marrying with the applicant no.1 as she is a mohammedan and the applicant no.1 is a Hindu both the families are deadly against the marriage between the applicant no.1 and the non-applicant no.2. She has earnestly requested that the first information report registered against the applicants should be quashed and set aside as it is based on the complaint lodged by her due to the ill-advice of her close friend.

In the circumstances of the case, it would be necessary to quash and set aside the first information report registered against the applicants. On the reading of the allegations in the first information report, it is clear that there was a love affair between the applicant no.1 and the non-applicant no.2 and they were involved in physical relationship. Initially, the non-applicant no.2 desired to marry the applicant no.1 and since he refused to marry her due to the objection from his family members, she appears to have lodged the complaint against the applicant no.1 on the advice of her friend with a hope that by filing the complaint against the applicant no.1 she could persuade him to marry her. The applicant no.1 and the non-applicant no.2 belong to different religions and it appears from the statements made by the non-applicant no.2 that she is not ready to go against the wishes of her family members to marry the applicant no.1, who is a Hindu. From the allegations made in the complaint and from the circumstances of the case, it appears that the first information report was registered on the basis of the complaint filed by the non-applicant no.2 as she hoped at that time that the applicant no.1 should marry her. In the circumstances of the case, it would be necessary to quash and set aside the first information report registered against the applicants, more so when it does not appear from the allegations in the first

information report that the applicant nos.2 and 3 had any role to play in the matter and the offences punishable under Section 376(2)(n), 354A, 341, 509, 373 and 506B of the Penal Code cannot be made out against them on the basis of the complaint lodged by the non-applicant no.2. Hence, with a view to prevent the abuse of the process of the Court and to secure the ends of justice, it would be necessary to quash and set aside the first information report registered against the applicants on the basis of the complaint lodged by the non-applicant no.2 by following the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in **(2014) 6 SCC 466**.

For the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicants for the offences punishable under Section 376(2)(n), 354A, 341, 509, 373 and 506B of the Penal Code and the proceedings arising therefrom are hereby quashed and set aside on the condition that the applicant no.1 and the non-applicant no.2 deposit a sum of Rupees Five Thousand each with the High Court Legal Services Sub-Committee, Nagpur within one week.

Order accordingly.

JUDGE

JUDGE