

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

CRIMINAL APPLICATION (APL) NO. 335/2018

(SHUBHAM PRAKASHRAO BUTE & ANR VERSUS STATE OF MAHARASHTRA, THR. PSO PS KHADAN,
DISTRICT AKOLA & ANOTHER)

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

Court's or Judge's orders

Shri S.G. Joshi, counsel for the applicants.
Shri A.S. Fulzele, A.P.P. for the NA-1.

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

DATE : MAY 02, 2018.

By this criminal application, the applicants seek the quashing and the setting aside of the first information report registered against the applicant no.1 for the offences punishable under Sections 363, 376 of the Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act.

The applicant no.1 and the applicant no.2 were acquainted with each other since the year 2015 when she was staying in Vatsalabai Backward Class Girls Hostel. The applicant no.1 and the applicant no.2 were in love with each other and without the consent of the non-applicant no.2, who is the father of the applicant no.2, the applicant no.2 eloped from the house and started residing with the applicant no.1. When the non-applicant no.2, viz. the father of the applicant no.2 became aware that the applicant no.2 had eloped with the applicant no.1, he filed a report against the applicant no.1 in the police station. The first information report was registered against the applicant no.1 for the aforesaid offences. Though initially the applicant no.1 was arrested, he was released on bail within a short time. At the relevant time, though the applicant no.2 was minor, she has

attained the age of majority in the year 2017 and after attaining the age of majority, the marriage between the applicant no.1 and the applicant no.2 was solemnized on 21.02.2018. Since the applicant nos.1 and 2 are happily residing together in the matrimonial home, the applicants have filed this criminal application for quashing and setting aside the first information report registered against the applicant no.1.

The applicant nos.1 and 2 are personally present in the Court today. Though the non-applicant no.2, the father of the applicant no.1, is duly served, there is no appearance on his behalf. The non-applicant no.2 is also not personally present in the Court, today. The applicant no.2 states that she is happily married to the applicant no.1 and if the first information report registered against him is not quashed and set aside, there would be no peace and harmony in their matrimony. It is stated that since the non-applicant no.2 dislike the relationship between the applicant nos.1 and 2, he had lodged the report against the applicant no.1 in the police station. It is stated that the statement of the mother of the applicant no.2 was recorded by the police authorities and she had clearly stated that she has no objection for the marriage of the applicant nos.1 and 2. It is stated that in the said statement, the mother of the applicant no.2 had admitted that the applicants have married.

Shri Fulzele, the learned Additional Public Prosecutor appearing for the non-applicant no.1, does not dispute the statement made on behalf of the applicants. It is not disputed that the statement of the mother of the applicant no.2 was recorded by the police and she had stated that she was on talking terms with the applicant and she does not have any objection about their marriage.

In the circumstances of the case, it would be necessary to quash and set aside the first information report registered against the applicant no.1 as the continuation of the criminal proceedings on the basis of the said report against the applicant no.1 would result in the abuse of the process of the Court in the circumstances of the case. There is no dispute that the applicant no.1 and the applicant no.2 have married on 21.02.2018 and the applicant no.2 has attained the age of majority. The applicant no.2 has clearly stated in the Court that she is happily residing with the applicant no.1. In this background, if the first information report is not quashed and set aside, there would be abuse of the process of the Court as it is most unlikely that the prosecution would result in the conviction of the applicant no.1 in the circumstances of the case. With a view to secure the ends of justice as the parties have married on 21.02.2018, it would be necessary to quash and set aside the first information report registered against the applicant no.1 by relying on the law laid down by the Hon'ble Supreme Court in the judgment in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in (2014) 6 SCC 466.

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 363, 376 of the Penal Code and Sections 3 and 4 of the Protection of Children from Sexual Offences Act and the proceedings arising therefrom are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE