

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2069 OF 2019

1. Shahrukh s/o. Khalil Shaikh,
Age 28 years, Occu. Business,
2. Khalil s/o. Dagu Shaikh,
Age 48 years, Occu. Labour,
3. Sharifa w/o. Khalil Shaikh,
Age 43 years, Occu. Household,
All R/o. Kuran Road Area, Sangamner,
Tq. Sangamner, Dist. Ahmednagar.**Applicants.**

Versus

1. The State of Maharashtra
Through Investigating Officer,
Tofkhana Police Station,
Ahmednagar, Tq. & Dist. Ahmednagar.
2. Tabbasum w/o. Muktar Shaikh,
Age 45 years, Occu. Household,
R/o. C-21, Mukundnagar, Mulla Colony,
Ahmednagar, Tq. & Dist. Ahmednagar.**Respondents.**

WITH
CRIMINAL APPLICATION NO. 640 OF 2018

Arbina w/o. Shahrukh Shaikh,
Age 19 years, Occu. Nil.,
R/o. Kuran Road Area, Sangamner,
Tq. Sangamner, Dist. Ahmednagar.**Applicant.**

Versus

1. The State of Maharashtra
Through Investigating Officer,
Tofkhana Police Station,
Ahmednagar, Tq. & Dist. Ahmednagar.
2. Tabbasum w/o. Muktar Shaikh,

Age 45 years, Occu. Household,
R/o. C-21, Mukundnagar, Mulla Colony,
Ahmednagar, Tq. & Dist. Ahmednagar.**Respondents.**

Mr. N.B. Narwade, Advocate for applicants.

Mrs. V.S. Choudhari, APP for respondent No. 1/State.

Mr. G.B. Chate h/f. Mr. S.R. Andhale, Advocate for respondent No. 2.

**CORAM : T.V. NALAWADE AND
N.B. SURYAWANSHI, JJ.**
DATED : 02/12/2019.

JUDGMENT : [PER T.V. NALAWADE, J.]

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) Both the proceedings are filed for relief of quashing of F.I.R. No. 82/2018 registered with Tophkhana Police Station, Ahmednagar for offences punishable under sections 363, 380 and 34 of Indian Penal Code. The crime is registered on the basis of report given by respondent No. 2 Tabassum Shaikh. She gave report on 9.2.2018 that on 1.2.2018 her daughter had left home for college, but she had not returned to home. It is her contention that on mobile of her daughter, she received phone call of applicant No. 1 and he informed that he and daughter of the informant were getting married. According to her, search was taken to trace the girl and even missing report was given, but she could not trace her daughter. She then approached police and gave report against applicant No. 1

and others that they had kidnapped her daughter. She also made allegations that while leaving home her daughter had taken with her cash amount of Rs.1.5 lakh and ornaments worth Rs.38,000/-. In view of such allegations, the crime came to be registered for aforesaid offences.

3) This Court has carefully gone through the record of investigation. The record contains statement of the daughter of informant recorded under section 164 of Cr.P.C. There is also record in respect of her date of birth showing that at the relevant time, she had completed 18 years of age. In the statement, she has stated that she had an affair with applicant No. 1 and on her own and to avoid the marriage which her mother was settling, she had left home. She has given statement that she had married with applicant No. 1. Her statement does not show that other applicants had any role to play in the incident. There is record of marriage created as per the Muslim religion.

4) On the other hand, the learned counsel for informant submitted that there was cash amount in the house of informant as some land was sold in the year 2017 and there were some ornaments in the house of informant. Some receipts of the ornaments of the year 2016 are produced. The learned counsel submitted that the daughter of the informant had taken away those

ornaments and that allegation needs to be believed at this stage.

5) It is unfortunate that mother of the girl has made such allegations only because the girl left home to marry with applicant No. 1. It cannot be believed that the ornaments purchased in the year 2016 which are ordinarily kept on person were kept in cupboard. It also does not look probable that cash amount of Rs.1.5 lakh which was part of sale proceeds of transaction of year 2017 was kept in cupboard of informant. That transaction of sale was made by others and not by informant. This Court holds that it will be abuse of process of law if applicants are made to face the trial for aforesaid offences. In the result, the application is allowed. Relief is granted in terms of prayer clause 'B'.

Rule is made absolute in those terms.

[N.B. SURYAWANSHI, J.]

[T.V. NALAWADE, J.]

ssc/