

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 275 OF 2017
ALONG WITH
WRIT PETITION NO. 527 OF 2020**

Amit B. Veer and ors. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

**ALONG WITH
CRIMINAL APPLICATION NO. 70 OF 2017
IN
CRIMINAL WRIT PETITION NO. 275 OF 2017**

Anjali M. Dalvi and anr. ... Interveners/Applicants

In the matter of
Amit B. Veer and ors. ... Petitioners
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. Prashant Pandey a/w. Mr. Pradeep Singh for the Petitioners.
Dr. F.R. Shaikh, APP for the Respondent – State.
Mr. A.R. Kori a/w. Mr. Anil Jaiswar for Respondent No.2 in
Cr.WP275/17 and for the Applicants in APPW/70/17.

**CORAM : B.P.DHARMADHIKARI,
CHIEF JUSTICE &
N.R. BORKAR, J.**

**DATE OF RESERVED : 28.2.2020
DATE OF PRONOUNCEMENT: 21.4.2020**

ORDER (PER N.R. BORKAR, J.)

1] Both these petitions are filed under Article 226 of the
Constitution of India read with Section 482 of the Code of

Criminal Procedure, 1973 for quashing of the First Information Reports by consent. As both these petitions are interconnected, they are being disposed of by this common order.

2] Criminal Writ Petition No. 275 of 2017 is filed for quashing of First Information Report registered by Rajapur Police Station, Ratnagiri vide Crime No. 9 of 2017 for the offences punishable under Sections 342, 366, 367, 420, 464, 465 and 506 read with 34 of the Indian Penal Code, 1860 (IPC).

3] Criminal Writ Petition No.527 of 2020 is filed for quashing of First Information Report registered by Mahatma Phule Chowk Police Station, Kalyan vide Crime No. 59 of 2017 for the offences punishable under section 464, 465, 466, 468, 471 read with 34 of the IPC and Section 12 of the Maharashtra Regulation of Marriage Bureau and Registration Act, 1998.

4] This Court on 17.3.2017 in Criminal Writ Petition No. 275 of 2017 had passed the following order:

“1. Heard learned counsel appearing for the Petitioners and the learned Additional Public Prosecutor for the first Respondent as well as the learned counsel appearing for the second Respondent.

2. Considering the controversy involved in this Petition, at this stage, same cannot be finally disposed of. We, therefore, propose to keep the Petition for final disposal at the admission stage.

3. The facts of this Petition are peculiar. The prayer in this Petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 is for quashing First Information Report (FIR) registered at the instance of the second Respondent for the offences punishable under Sections 366, 367, 342, 420, 464, 465 and 506 read with 34 of the Indian Penal Code. The impugned FIR was registered on 9th January 2017. The case of the second Respondent is that she lost her father at the age of 7 years and thereafter, her maternal uncle has taken her care. In fact, her maternal uncle ensured that she completes her education. Her case is that from December 2015, she got an employment as a Receptionist in Fun & Fit Gym in which the first Petitioner was employed as a fitness trainer. She has stated that she developed friendship with the first Petitioner. She stated that she came in contact with parents of the first Petitioner. According to her case, the first Petitioner proposed her for marriage when she disclosed that she has already decided to marry with another person. She stated that their friendship will continue.

4. It is alleged that even though the second Respondent gave up the job of Receptionist and was staying in the house of her maternal uncle, the first Petitioner always used to contact her by sending messages though she tried to discourage him to do so. It is further alleged that on 3rd September 2016, the first Petitioner forced her to sign an application and thereafter, the first Petitioner and the second Respondent were brought by the first Petitioner's father to his house. The second Petitioner is

the father of the first Petitioner and the third Petitioner is the mother of the first Petitioner. She alleged that a phone call was made by Rajapur Police on cell phone number of the first Petitioner. It is alleged that the third Petitioner who answered the call falsely informed the Police that the first Petitioner and the second Respondent had gone away to Beed. It is alleged that the first petitioner took the second Respondent on 7th October 2016 to Oras in Sindhudurg to the house of a Jail official. It is alleged that she was kept in the said house till the morning of 10th October 2016. It is stated that thereafter, she was taken by the said Jail official and the first Petitioner to the office of an Advocate wherein she was forced to sign on a bond paper. It is further alleged that the said Jail official, the Advocate, another Jail official and the first Petitioner took the second Respondent to Rajapur Police Station when the advocate forced her to sign a letter stating that she has married with the first Petitioner as per her own wishes and that the missing complaint filed by her maternal uncle was out of anger which should not be considered. The second Respondent alleged that thereafter, a Xylo Car of white colour came. A person sitting in the Car called upon her to occupy a seat in the Car. The allegations have been made as regards what transpired in the car. It is alleged that she was taken to Paradise Hotel at Kalyan. She was threatened and told not to contact her family members. Thereafter, on 5th September 2016, she was taken to the house of the first Petitioner.

5. As regards the alleged marriage, the second Respondent claimed that she was taken by the second Petitioner on 6th September 2016 to a place near the Court premises at Kalyan. She stated that one typed document was kept ready and she was forced to sign the said document. It is alleged that it was mentioned in the said document that her marriage with the first Petitioner was solemnized on 28th July 2016.

6. The prayer for quashing is sought on the basis of the settlement/consent. Reliance is placed on the

affidavit of the second Respondent which is annexed on Page 21A of the Petition. The case of the Petitioner is that the marriage between the first Petitioner and the second Respondent was solemnized at Kalyan on 28th July 2016 which was registered on 28th September 2016 by the Registrar of Marriages at Thane.

7. As there was some doubt created whether the second Respondent has really settled the dispute between the first Petitioner and herself, we had called the parties in chamber on 7th February 2017. After having a detailed discussion with the second Respondent, we were satisfied that the second Respondent was not desirous of staying with the first Petitioner. She was not willing to keep any contact with the first Petitioner. On that day, she proceeded with her mother and maternal uncle to the place of the maternal uncle and till today, she is admittedly residing with her maternal uncle.

8. The subsequent orders passed by this Court from time to time and affidavits filed on record show that the Petitioners and in particular the first Petitioner accepted that the case made out by the Petitioners that the marriage between the first Petitioner and the second Respondent was solemnized on 28th July 2016 is false. In fact, an affidavit to that effect has been filed by the first Petitioner. However, the first Petitioner maintained that there was a marriage solemnized between him and the second Respondent on 6th September 2016. There is a report submitted on 14th February 2017 by the Assistant Inspector of Police of Rajapur Police Station on the aspect of alleged marriage on 6th September 2016. We may note here that FIR has been registered against the Petitioners vide C.R. No.59 of 2017 at Mahatma Phule Chowk Police Station, Kalyan for the offences punishable under Sections 464, 465, 466, 468, 471 read with 34 of the Indian Penal Code as well as for the offence punishable under the Maharashtra Regulations of Marriage Bureau and Registration Act, 1998.

9. On 15th March 2017, again the first Petitioner and the second Respondent were heard in chamber. The second Respondent stated that she does not wish to have any contact or any relationship with the first Petitioner whatsoever and she is happily residing with her maternal uncle. She maintained that she wants to get married with another person.

10. The first Petitioner has filed an affidavit dated 17th March 2017 in which he has undertaken to file appropriate proceedings before Civil Court within a period of three weeks from today for claiming declaration that the award dated 6th September 2016 is null and void. There is an affidavit of today's date filed by the second Respondent in which she has stated that she is happily residing with her maternal uncle since 7th February 2016 till date, and she has no contact with the first Petitioner since then.

11. We accept the statements made by the first Petitioner and the second Respondent in their respective affidavits.

12. In normal course, considering the conduct of the first Petitioner and to some extent the conduct of the second Respondent, this Court would not have entertained this Petition for quashing on the ground of settlement as the case made out about the solemnization of marriage on 28th July 2016 is found to be false. In fact, the documents annexed to the Petition show that even the second Respondent has taken up the said stand in her affidavit executed before the learned Executive Magistrate. We are entertaining this Petition only with a view to ensure that a final solution is found to the dispute. In light of the statement made by the first Petitioner that he will seek appropriate declaration from the appropriate Court, the Petition will have to be kept pending. We accept the statement made by the first Petitioner that necessary proceedings will be filed within a period of three weeks from today.

13. Place the Petition under the caption of "Final Disposal at the Admission Stage" on 19th June 2017.

14. By way of ad-interim relief, we direct that though investigation on the basis of the impugned First Information Report shall continue, chargesheet shall not be filed without leave of the Court. As the first Petitioner and the second Respondent are trying to bring to an end about their entire dispute, we direct that investigation on the basis of C.R. No.59 of 2017 filed with the Mahatma Phule Chowk Police Station shall continue, but chargesheet shall not be filed till the next date without leave of the Court."

5] Pursuant to the order dated 17.3.2017, petitioner No.1 as per his statement to this Court recorded in the said order had filed the petition before the Family Court, Thane for declaration to the effect that he is unmarried and marriage certificate dated 28.9.2016 is null and void. The Family Court, Thane, however, dismissed the said petition against which petitioner No.1 filed Family Court Appeal (St) No. 28300 of 2018 before this Court. Suffice it to say that we have allowed the said Family Court Appeal today and granted the declaration as sought by petitioner No.1.

6] In view of the order passed by this Court on 17.3.2017 and as nothing fruitful will come out of the prosecutions in

question, we are inclined to allow the present petitions.

7] Accordingly, both the petitions are allowed and the impugned First Information Reports registered by Rajapur Police Station, Ratnagiri vide Crime No. 9 of 2017 for the offences punishable under Sections 342, 366, 367, 420, 464, 465 and 506 read with 34 of the IPC and Mahatma Phule Chowk Police Station, Kalyan vide Crime No. 59 of 2017 for the offences punishable under section 464, 465, 466, 468, 471 read with 34 of the IPC and Section 12 of the Maharashtra Regulation of Marriage Bureau and Registration Act, 1998 are hereby quashed and set aside.

8] Criminal Application No. 70 of 2017 does not survive and the same is also disposed of.

(N.R. BORKAR, J.)

(CHIEF JUSTICE)