

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

2 CRIMINAL APPLICATION NO.727 OF 2021

ABHISHEK KALYAN ALIAS AJAY CHAVAN AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr.N.R. Thorat, Advocate for the applicants
Mr.R.V. Dasalkar, APP for respondent
no.1/State

Mr.S.C. Swami h/f Mr.R.D. Thorat, Advocate
for respondent no.2.

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**CORAM : RAVINDRA V.GHUGE
AND
B.U.DEBADWAR, JJ.**

DATE : 30th March, 2021

PER COURT :-

1. We had heard this matter for quite some time on 22.03.2021, and in our order, we have recorded in paragraph no.1 that applicant no.1 had got married with the daughter of respondent no.2 – informant; viz. Megha. Based on the said statement, we had permitted the learned Advocate for the applicants to research on Section 178(6) of the Indian Penal Code.

2. Today, we have heard the learned Advocate for the applicants, the learned

Prosecutor and the learned Advocate on behalf of the informant-respondent no.2, at length.

3. The F.I.R. clearly indicates that nine persons, out of which, eight are the applicants before us, had arrived in a four wheeler/Car on 27.12.2020, at the house of the informant and had forcibly carried away his daughter Megha, who was 16 years of age. The informant had lodged a written complaint to the Police Inspector, Newasa Police Station on 28.12.2020. Since no cognizance was taken, he approached the District Superintendent of Police, on the same day and filed a complaint. Even the Superintendent of Police, Ahmednagar did not take cognizance of the said complaint and hence, the informant approached the Court of the learned Judicial Magistrate, First Class. It was thereafter that the F.I.R. was registered on 18.02.2021 at 20.36 hours.

4. The learned Advocate for the applicants submits that applicant no.1 has married the said victim daughter of the informant. He was 20 years old and she was 16 years old, when they got married. We do not find any such statement made in the memo of

the application seeking quashing of the F.I.R. under Section 482 of the Cr.P.C.

5. The learned Advocate for the informant submits, on instructions from the informant, that applicant no.1 got married with his daughter Megha on 29.05.2020. We find that no such statement is made in the affidavit dated 22.03.2021 filed by the informant, in these proceedings. The fact remains that the F.I.R. was registered as Crime No.90/2021 on 18.02.2021, at 20.36 hours.

6. In view of the above, we find peculiar features cited by the applicants and respondent no.2, as under :-

- (a) The marriage between applicant no.1 and the daughter of the informant, Megha allegedly took place on 29.05.2020.
- (b) Applicant no.1 was 20 years of age and the victim Megha was 16 years of age, when they allegedly got married.
- (c) On 27.12.2020, at around 11 p.m., these eight applicants, along with one other person (in all nine accused),

came in a Car to the house of the informant and kidnapped Megha.

(d) The F.I.R. is registered on 18.02.2021.

(e) There is no whisper in the memo of the application, that applicant no.1 has married the daughter of the informant.

(f) The informant does not say in the affidavit filed recently on 22.03.2021, that these two persons have got married.

7. Considering the above, we have serious doubts, as regards the statements made by the two sides. It also appears that neither the applicants nor the informant intend to tell the facts to the Court, as to whether applicant no.1 and Megha have really got married on 29.05.2020, and if that was so, why would the nine accused kidnap Megha on 27.12.2020, at 11 p.m. from her paternal home.

8. In the alternative, the learned Advocate for the applicants submits that even if, applicant no.1 has committed an offence punishable under section 376 of the I.P.C., the rest of the applicants have been

unnecessarily arrayed as accused.

9. We find from the F.I.R. that there is a specific statement made by the informant, in his written complaint, that he had approached the Police Station, Newasa and District Superintendent of Police on 28.12.2020, for registering an offence of kidnapping/abduction. No offence was registered and hence, he had to approach the learned Judicial Magistrate, First Class. Thereafter, the F.I.R. has been registered. The role of the nine accused is clearly set out in the F.I.R. making out offences against the accused.

10. Considering the above, we do not find it appropriate to exercise our jurisdiction under section 482 of the Cr.P.C.

11. This application is, therefore, rejected.

(B.U.DEBADWAR,J.)

(RAVINDRA V. GHUGE,J.)