

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) NO. 44 OF 2021

Amit S/o. Devidas Kadwe,
Aged about 27 years,
Occupation : Professional Consultant,
R/o. Kannamwar Nagar, Arvi,
Tq. Arvi, Dist. Wardha.

.....APPLICANT

... **VERSUS** ...

1. State of Maharashtra,
Through Police Station Officer,
Police Station Rajapeth, Amravati,
Tq. & Dist. Amravati.
2. Anshum D/o. Ramesh Vesankar,
Aged about 31 years,
Occ. - Service,
R/o. In the house of Dhanraj Gupta
"Pushp", Rajapeth, Amravati,
Tq. & Dist. Amravati.

Permanent Address :-

C/o. Ramesh Madhavrao Vesankar,
Flat No. 401, Madhuvishwa Apartment,
Trimurti Nagar, Rana Pratap Nagar, Bhamti
Parsodi, Near NIT Garden, Nagpur,
Tq. & Dist. Nagpur – 440022.

.....NON-APPLICANTS

Shri Anil Mardikar, Sr. Adv. a/b Shri S. S. Dhengale, Adv. for the Applicant.
Shri S. M. Ghodeswar, Additional Public Prosecutor for the Non-applicant
No.1.
Shri S. K. Bhoyar, Advocate for the Non-applicant No.2.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 08.09.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.
2. Rule. Rule is made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of the First Information Report bearing No.795/2020 dated 06.12.2020 registered with the non-applicant No.1 – Police Station for the offences punishable under Sections 354, 354-D, 506 and 504 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicant with the accusations that the non-applicant No.2 was working at M.I.D.C., Amravati as Assistant Architect. The non-applicant No.2 came in contact with the applicant for the purpose of office work and thereafter both were acquainted with each other. It is alleged that the applicant was sending messages frequently to the non-applicant No.2 and requested her to talk with him. It is alleged that on 06.12.2020 the present applicant visited the house of the non-applicant No.2 and tried to establish close intimacy with the non-applicant No.2 and requested her to talk with him and not to avoid him by stating that the applicant wants to marry the non-applicant No.2. The applicant also threatened the non-applicant No.2 that, if she refuses to talk with him, he will commit suicide. The non-applicant No.2 therefore, filed the First Information Report against the applicant.

5. The applicant has therefore, challenged registration of the First Information Report by way of present application. This Court on 13.01.2021 issued notice to the non-applicants. The non-applicant No.1 has filed reply stating that there is sufficient material on record to implicate the applicant for the offences alleged against him.

6. During the pendency of the present application, the matter was referred to mediation. The learned Mediator has submitted his report in Mediation Case No.94/2021. The learned Mediator has stated in his report that the non-applicant No.2 does not want to prosecute the First Information Report registered against the applicant and therefore, the non-applicant No.2 has prayed before this Court to quash the First Information Report against the applicant.

7. We have carefully considered the allegations in the First Information Report. Though the offences alleged against the applicant are serious in nature, but having carefully gone through the allegation in the First Information Report, the material produced by the applicant and the reply filed by the non-applicant No.1, we are satisfied that essential ingredients of the offences alleged against the applicant are not fulfilled, even if, the allegations are taken on their face value.

8. The decision of the Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in *(2014) AIR SCW 2065*, makes it clear that the Court cannot declare to quash the First Information Report merely because the First Information Report incorporates a particular provision which is a serious offence or offence against society. The Court has to make an endeavour to find out whether the information in the First Information Report indeed discloses the ingredients of such offence and the Court can accept the settlement and quash the report/charge-sheet only after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report/charge-sheet.

9. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offence under Sections 354, 354-D, 506 and 504 of the Indian Penal Code are not fulfilled. Since the applicant and the non-applicant No.2 have mutually resolved their dispute, chances of conviction are bleak.

10. In view of the report of the Mediator recording consent of the non-applicant No.2 to quash the report against the applicant, there is no impediment for quashing the First Information Report against the applicant.

11. We therefore, pass following order :

The First Information Report bearing No.795/2020 dated 06.12.2020 registered with the non-applicant No.1 – Police Station for the offences punishable under Sections 354, 354-D, 506 and 504 of the Indian Penal Code is quashed and set aside.

12. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

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