

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

CRIMINAL APPLICATION (APL) NO. 233 OF 2021

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| 1. Nargis Sheikh Ahad,
Age – 19 years, Occu. - House-hold,
R/o. Kondhali, Tahsil – Katol,
District – Nagpur. | – | (Complainant) |
| 2. Sheikh Shahid Sheikh Hanif,
Age 28 years, Occu.- Labour,
R/o. Kondhali, Tahsil – Katol,
District – Nagpur. | – | (Accused) |
| | | APPLICANTS |

----VERSUS----

State of Maharashtra, Through P. S.O., Talegaon, Tahsil – Arvi, District – Wardha.		NON-APPLICANT
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Shri D. R. Bhoyar, Advocate for Applicants.
Shri N. R. Patil, Additional Public Prosecutor for Non-applicant/State.

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

DATE : 23.09.2021.

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 applicants have jointly prayed for quashing the First Information Report bearing No.299/2016 for the offences punishable under Sections 376(2)(f),(i),(n) of the

Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act, 2012 (in short “POCSO”) and consequent proceeding of Special (Child) Case No.52/2017 pending before the Special Judge for POCSO, Wardha.

4. The First Information Report came to be registered against the applicant No.2 by the applicant No.1 alleging that the applicant No.1 was 16 years old on the date of the incident and had gone to the field for work and while returning from the said field, applicant No.2 came from behind, put a cloth on her face and thereafter she become unconscious. After she gained consciousness, she saw her hands and legs were tied. The applicant No.1 therefore, filed the First Information Report against the unknown person.

5. The Investigating Agency carried out the investigation and it was revealed that it is the applicant No.2, who is husband of her elder sister and allegedly carried out sexual intercourse with the applicant No.1. It is stated that the applicant No.1 has given birth to male child on 02.10.2016 and has married with the applicant No.2.

6. Today, the applicant Nos.1 and 2 are present in the Court. The applicants have placed on record Nikah Nama, which

is on page 165 of this application. It is stated that since the applicant Nos.1 and 2 have married and have settled their dispute, they have jointly requested to quash the First Information Report against the applicant No.2.

7. This Court in ***Criminal Application No. 988/2019*** (*Taj @ Arjun S/o. Ajay Mishra and Anr. Vs. State of Maharashtra*) decided on 22.10.2019, in ***Criminal Application No.167/2019*** (*Areeb Naseer Sarguroh Vs. The State of Maharashtra and Anr.*) decided on 09.10.2019 and also in ***Criminal Writ Petition No.137/2015*** (*Meghnath Pandurang Divkar Vs. State of Goa and Ors.*) decided on 28.10.2015 has quashed the First Information Report registered under the provisions of the Protection of Children From Sexual Offences Act, 2012 on the ground of compromise between them.

8. Since the applicant Nos.1 and 2 have married, we are of the view that the prosecution against the applicant No.2 needs to be quashed and set aside.

9. Therefore, we pass following order :

The First Information Report No.299/2016 for the offences punishable under Sections 376(2)(f),(i),(n) of the Indian Penal Code, Section 6 of the Protection of Children from Sexual

Offences Act, 2012 and consequent proceeding of Special (Child) Case No.52/2017 pending before the Special Judge for POCSO, Wardha, are quashed and set aside.

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

JUDGE

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