

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

CRIMINAL APPLICATION (APL) NO.516/2021

Gopal Prakash Sawarkar,
Aged 27 years, Occ. Student,
R/o Kawasa, Tq. Dist. Akola.

....APPLICANT

...V E R S U S...

1. State of Maharashtra, through
Police Station Officer, Police Station,
Civil Lines, Akola, Tq. Dist. Akola.
2. Ku. Laxmi Satyanarayan Mhasaye,
aged about 19 years, Occ. Education,
r/o c/o Joshi, Ranpise Nagar, Akola.
Permanent Address : Post Warkhed,
Tq. Telhara, Dist. Akola.

...NON APPLICANTS

Mr. S. Bhende, Advocate for applicant.
Mr. T. A. Mirza, A.P.P. for non applicant no.1.

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

DATE:- AUGUST 23, 2021

ORAL JUDGMENT (Per: Amit B. Borkar, J.)

1. Rule. Rule is made returnable forthwith. Heard finally
by consent of the learned counsel for the parties.

2. By this application under Section 482 of the Code of
Criminal Procedure, applicant is challenging registration of FIR

No.543/2020, registered with non applicant no.1-Police Station Officer, Police Station Civil Lines, Akola under Sections 328, 354-A, 354-D, 342, 323, 504 and 506 of the Indian Penal Code.

3. FIR came to be registered against applicant with accusations that the applicant intoxicated non applicant no.2 and, therefore, non applicant no.2 became unconscious. When non applicant no.2 gained consciousness, the applicant threatened her not to disclose the episode to anyone else. It is alleged that on 18.12.2020, the applicant outraged modesty of non applicant no.2.

4. The applicant has, therefore, filed present application challenging registration of the FIR. This Court on 06.05.2021, issued notices to the non applicants and in the meantime, it was directed that charge-sheet shall not be filed against the applicant. Non applicant no.1, in pursuance of the said notice, has filed reply stating that there is sufficient material with the investigating agency which, prima facie, fulfills the ingredients of offence alleged against the applicants.

5. The applicant and non applicant no.2 have filed joint affidavit in this Criminal Application No.516/2021. It is stated in the said application that the applicant and non applicant no.2 are in love relationship and the FIR came to be registered against the applicant due to misunderstanding. It is also stated in paragraph 2 of the said application that non applicant no.2 and applicant have performed marriage and produced copy of marriage certificate dated 22.05.2021. It is stated that since applicant and non applicant no.2 are happily married and are residing together having no grievance against each others, they jointly pray for quashing of the FIR against the applicant. On the last occasion, on 04.08.2021, this Court directed learned A.P.P. to get instructions as regards marriage certificate produced by applicant and non applicant no.2 along with pursis dated 14.07.2021. Today, Mr.Mirza, learned A.P.P. has placed on record copy of marriage certificate attested by the investigating officer. In view of the said fact, we are satisfied that there is a marriage performed between applicant and non applicant no.2.

6. In the light of the aforesaid facts, we have carefully considered the allegations in the FIR and the material produced by the investigating officer. On careful perusal of aforesaid facts, we

are satisfied that the ingredients of the offence alleged against the applicant are not made out even if the allegations in the FIR are accepted as correct. In addition to the said fact, the applicant has produced on record birth certificate of non applicant no.2. The said birth certificate has been produced on record by way of pursis dated 23.08.2021. It is taken on record and marked "X" for identification. The birth date of non applicant no.2 mentioned in the aforesaid certificate is 16.03.2002. Therefore, on the date of the alleged incident, non applicant no.2 was major.

7. The Apex Court in *Madan Mohan Abbot vs. State Of Punjab* reported in *2008 (4) SCC 5840*, has taken a view that in case of settlement between the parties and if the chances of conviction are bleak, the Courts should quash the FIR as criminal courts are already overburdened. It is also observed that time saved by quashing the proceedings can be better utilized for some other deserving cases.

8. In view of the nature of allegations against the applicant and performance of marriage between applicant and non applicant no.2 and in view of the judgment in *Madan Mohan Abbot vs. State Of Punjab* supra, we are satisfied that there is no

impediment in quashing the FIR against the applicant. We, therefore, pass the following order.

Criminal Application (APL) No.516/2021 is allowed. FIR No.543/2020, registered with non applicant no.1-Police Station, Civil Lines, Akola for the offence punishable under Sections 328, 354-A, 354-D, 342, 323, 504 and 506 of the Indian Penal Code is quashed and set aside.

Rule is made absolute in the above terms.

JUDGE

JUDGE

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