

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

CRIMINAL APPLICATION (APL) NO. 379 OF 2020

Aditya S/o. Hemant Deshmukh,
Aged about 23 Years, Occ. : Private,
R/o. Munje Wada, Near Natraj Talkies,
Zenda Chowk, Mahal, Dist. - Nagpur.**APPLICANT**

... **VERSUS** ...

1. State of Maharashtra Through
Police Station Officer, Police Station,
Kotwali, Nagpur.
2. Ms. Dhanshree d/o. Harshit Aglawe,
Aged about 17 & ½ years,
Occ.: Student, Through Natural Guardian -
Father Harshit Aglawe,
R/o. Near Ayachit Bus Stop,
Garud Khamb Square, Behind Sangh
Building, P. S. Kotwali, Nagpur.**NON-APPLICANTS**

Shri Anubhav A. Mardikar, Advocate for Applicant.
Ms. M. A. Barabde, Additional Public Prosecutor for Non-applicant No.1/State.
Mrs. Chetana Khatole, Advocate for Non-applicant No.2.

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

DATE : 12.07.2021.

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-husband has challenged

registration of the First Information Report No.161/2020 dated 19.06.2020 registered with the non-applicant no.1 - Police Station for the offences punishable under Section 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012.

4. The First Information Report came to be registered against the applicant with the accusations that the applicant and the non-applicant No.2 were in love relationship from April 2018. It is alleged that on 04.02.2020 the applicant had forcible sexual intercourse with the non-applicant No.2 on promise of marriage, but thereafter, the applicant refused to perform marriage with the non-applicant No.2. Therefore, on 19.06.2020, the non-applicant No.2 has filed report against the applicant.

5. The applicant has therefore challenged registration of the First Information Report by filing present application. This Court on 22.01.2021, issued notice to the non-applicants.

6. The non-applicant no.1 in pursuance of the said notice has filed reply and contested the application stating that the Investigating Agency has sufficient material against the applicant. It appears that during pendency of the present application, the applicant and the non-applicant No.2 have performed marriage. The applicant has produced certificate of marriage with the non-

applicant No.2 denoting that on 18.01.2021 the applicant performed marriage with the non-applicant No.2.

7. The non-applicant No.2 has filed affidavit dated 29.06.2021 stating that the non-applicant No.2 has performed marriage with the applicant out of her free will and she has no objection for quashing registration of the First Information Report and Charge-Sheet filed against the applicant.

8. Today, when the matter is called, the applicant and the non-applicant No.2 are present in the offices of their respective Advocates. On specific query from the Court, the non-applicant No.2 stated that the applicant has not exerted any pressure, undue influence or coercion for filing affidavit giving no objection for quashing the First Information Report and Charge-Sheet. The non-applicant No.2 stated that the applicant is treating her well and therefore, it is in the interest of applicant and the non-applicant No.2, being husband and wife, to quash the First Information Report and Charge-Sheet against the applicant. 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.

9. In the present case, the applicant at the relevant time was of 23 years and the non-applicant No.2 was of 17 years. Presently, the non-applicant No.2 is of 18 years. Both the applicant and the non-applicant No.2 have married with each other and therefore, in our view, in the light of law laid down by the Hon'ble Apex Court in the case of ***Madan Mohan Abbot Vs. State of Punjab*** reported in ***(2008) 4 SCC 582***, we find no purpose would be served by keeping criminal proceedings against the applicant alive except ultimately burdening the Criminal Court, which are already over-burdened.

10. In the light of principles laid down by the Hon'ble Apex Court in the case of ***Narinder Singh & others Vs. State of Punjab & anr.*** reported in ***(2014) AIR SCW 2065*** and ***Madan Mohan Abbot*** (supra), we are of the considered view that there is no impediment in quashing criminal proceedings against the applicant.

11. We, therefore, pass the following order :

The First Information Report No.161/2020 dated 19.06.2020 registered with the non-applicant no.1 - Police Station and Charge-Sheet filed before the District Judge – 9 punishable under Section 376 of the Indian Penal Code and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012 and Special Case No.455/2020 are quashed and set aside.

Rule is made absolute in the aforesaid terms.

In view of disposal of main application, Criminal Application (APPP) No.951/2021 for grant of amendment and Criminal Application (APPP) No.1022/2021 for grant of permission to file certificate of marriage on record, do not survive.

Hence, both the applications are disposed of accordingly.

JUDGE

JUDGE