

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

CRIMINAL APPLICATION (APL) NO. 983 OF 2021

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| <p>1. Vaishnavi Kailash Masankr
Age about 18 years,
Occupation – Student,
R/o At Post – Sahit, Tq. Barshitakli &
District Akola</p> <p>2. Atul S/o Shaligram Wahurwath,
Aged about : 26 years,
Occupation – Labourer
R/o At Post – Sahit, Tq. Barshitakli &
District Akola</p> <p>3. Mangesh S/o Shaligram Wahurwagh
Aged about : 30 years,
Occupation : Labourer
R/o At Post – Sahit, Tq. Barshitakli &
District Akola</p> | } | <u>.. APPLICANTS</u> |
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Versus

State of Maharashtra through Police Station Officer, Police Station Barshitakli Tq. Barshitakli & District : Akola	}	<u>.. NON - APPLICANT</u>
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Mr. Kamal Anandani, Advocate for applicants
Mr. V.A. Thakre, A.P.P. for non-applicant / State

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

DATE : SEPTEMBER 24, 2021

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

The applicants are challenging the First Information
Report No.9/2019, registered with non-applicant – Police

Station and charge-sheet No.33/2019 and Special Child Protection Case No. 34/2019.

2. The First Information Report came to be registered against the applicants No.2 and 3 with the accusations that applicant No.2 touched the applicant No.1 with sexual intent and when she shouted for help the father of the applicant No.1 came there. The applicants No.2 and 3 assaulted the father of applicant No.1 and therefore, First Information Report came to be registered against the applicants No.2 and 3. During pendency of the investigation, the applicants have decided to resolve their dispute. The applicants have therefore, filed the present application jointly for quashing proceedings against the applicants No.2 and 3. It is stated that in order to have peace and harmony in their lives, the applicants are approaching this Court. We have carefully considered the allegations in the First Information Report. The applicant no. 1 in the application has stated that the FIR came to be registered due to misunderstanding and now in order to maintain peace and harmony in the village and to maintain future relations, the

applicant No. 1 has decided to withdraw all the allegations and proceedings against the applicant nos. 2 and 3. Though the offences punishable under the provisions of the Protection of Children from Sexual Offences Act, 2012 are alleged against the applicants No.2 and 3, on careful scrutiny of the allegations along with the material produced, we are satisfied that the ingredients in the First Information Report are not sufficient to constitute the offences against the applicants No.2 and 3.

3. Though the offences under the provisions of the Protection of Children from Sexual Offences Act, 2012 are serious offences, but at this stage, it would be profitable to refer the judgment of the Hon'ble Apex Court in the case of **Narinder Singh & others Vs. State of Punjab & another** reported in **AIR 2014 SCW 2065**. The decision of the Hon'ble Apex Court 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 an offence against the society. The Court has to make an endeavour to find out whether the First Information Report

indeed discloses the ingredients of such offence and the Court can accept the statement and quash the First Information Report after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report.

4. In view of the above, there is no impediment in quashing the First Information Report and proceedings against the applicants No.2 and 3.

5. We therefore, pass the following order.

The First Information Report No.9/2019, registered with non-applicant – Police Station, Charge-sheet No.33/2019 and Special Child Protection Case No. 34/2019, pending before the Special Court, Akola, are quashed and set aside against the applicants No.2 and 3.

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

JUDGE

JUDGE

MP Deshpande