

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

CRIMINAL APPLICATION (APL) NO. 1158 OF 2021

1. Abhijit @ Abhishek s/o Gajanan Mahule,
aged about 29 years, Occ. Private.
2. Shubhangi D/o Subhash Dhurve @ Smt. Shubhangi w/o
Abhishek Mahule, aged about 26 years,
Occ. Housewife.

Both are R/o Plot No.441, New Colony,
Near NMC Office, Chawani, Nagpur.

...APPLICANTS

Versus

The State of Maharashtra,
through Police Station Officer,
Police Station, Sadar, Nagpur.

...NON-APPLICANT

Shri Sandeep N. Nandeshwar, Advocate for the applicants.
Shri V.A. Thakre, A.P.P. for the non-applicant/ State.

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**CORAM : M.S. SONAK &
PUSHPA V. GANEDIWALA, JJ.
DATED : OCTOBER 25, 2021.**

ORAL JUDGMENT : (PER : PUSHPA V. GANEDIWALA, J.)

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel for both the parties.

2. This is a joint application filed by the accused and the complainant under Section 482 of the Code of Criminal Procedure for quashing of chargesheet and criminal proceedings bearing Special Atrocities Case No. 23/2016 arose out of the First Information Report No. 291/2015 dated 22/09/2015 registered at Police Station, Sadar, Dist. Nagpur for the offences punishable under Section 376(2)(N) of the Indian Penal Code and Sections 3(1)(xii) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending on the file of the District and Sessions Judge – 12, Nagpur.

3. The case of the prosecution, in nutshell, is that on 22/09/2015, applicant No.2 lodged a report with the aforesaid police station against applicant No.1 alleging therein that on the pretext of marriage, applicant No.1 established physical relationship, and thereafter refuses to marry.

4. Shri S.N. Nandeshwar, learned counsel for the applicants, acknowledges the identification of the applicants and submits that at the time of incident, applicant No.2/complainant has already attained the age of majority. He further submit that immediately after lodging of the report in 2015, applicant No.1 performed marriage with applicant No.2 and that presently, out of the said wedlock, they have two children, viz. Bhavik and Ashi, aged around 5 and 1 years respectively, and hence, applicant No.2 does not want to proceed in the

matter any further, and thus he prayed for allowing the application.

5. In order to satisfy ourselves, we have personally talked with applicant No.2, and we are satisfied with the fact that at the relevant time, applicant No.2 had crossed the age of majority. That there was a consensual physical relationship between the parties on the pretext of marriage.

6. A perusal of the F.I.R. would indicate that applicant No.1 wanted to marry applicant No.2 after the marriage of her sister, however, as applicant No.2 conceived, she insisted him for marriage, and on refusal, she lodged the report.

7. Given the aforesaid facts and circumstances of the case, so also considering the law laid down by the Division Bench of this Court in the case of **Amit Kumar Arun Kumar Singh Vs. State of Maharashtra, 2014(4) Bom. C.R. (Cri.) 788** wherein in similar facts and circumstances, this Court, in order to give an end to the criminal litigation, quashed the F.I.R., we are of the firm view that no fruitful purpose would be served in prosecuting the applicants in the aforesaid crime. Hence, the following order :

ORDER

i. The Criminal Application is allowed.

ii. The chargesheet and criminal proceedings bearing Special Atrocities Case No. 23/2016 arose out of the First Information Report No. 291/2015 dated 22/09/2015 registered at Police Station, Sadar, Dist. Nagpur for the offences punishable under Section 376(2)(N) of the Indian Penal Code and Sections 3(1)(xii) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, pending on the file of the District and Sessions Judge – 12, Nagpur, are quashed and set-aside.

8. Rule is made absolute in the aforesaid terms.

(PUSHPA V. GANEDIWALA, J.)

(M.S. SONAK, J.)

Sumit