

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 4908 OF 2021

Shakil Ahmed Shaikh and Anr. ...Petitioner
vs.
The State of Maharashtra and Anr. ...Respondents

Mr. Rajesh Tekale i/by Anandrao S. Kale - Advocate for the Petitioner
Ms. M. H. Mhatre - APP for the Respondent No. 1-State

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 23rd MARCH, 2022

P. C. :-

1. Heard the learned counsel for the Petitioner.
2. The Petitioner No. 1 in the present Petition is the informant-Complainant at whose instance F.I.R. bearing Crime No. 160 of 2019 was registered at Shivaji Nagar Police Station, Mumbai. Whereas the Petitioner No. 2 is the victim of the offence. Some and substance of the report is the Petitioner No. 1 is resident of Jai Bhavani Chawl, Annabhau, Shate Nagar, Mankhurd, Mumbai. His minor daughter is prosecuting her study in 10th standard. On 18/03/2019, the Petitioner No. 1 left Petitioner No. 2 in her school and after attending the school in the afternoon, Petitioner No. 1 went to school to took his daughter from the school, the Petitioner No. 1

was unable to find his daughter in the school in spite of various attempts made, whereabouts daughter is not made known. Accordingly, the Report came to be lodged against an unknown person. In the supplementary statement the role of Respondent No. 2 was disclosed. Accordingly, offence was initially registered against unknown person and F.I.R. was registered bearing Crime No. 160 of 2020 at Shivaji Nagar Police Station, Mumbai for the offence under Sections 363 of Indian Penal Code and subsequently other offences were added namely offence under Sections 363, 376, 376(2)(n) of Indian Penal Code and Section 4, 6, 8, 10 and 12 of POCSO Act were added.

3. Now the Petitioner No. 1 by filing an affidavit in this Court submits that post filing of the report, the Respondent No. 2 agreed to marry with the Petitioner No. 2 on attaining the age of majority and accordingly, as soon the Petitioner No. 2 attained the age of majority, the marriage between the Petitioner No. 2 and Respondent No. 2 was solemnized and the copy of the certificate of registration of marriage issued by the Competent Authority is also placed on record alongwith affidavit. There is also copy of Nikahnama annexed to the affidavit.

4. In the affidavit, it is stated that presently the daughter of the Petitioner No. 1 i.e. Petitioner No. 2 and Respondent No. 2 are living a peaceful life together as husband and wife. It is also submitted by the

Petitioner Nos. 1 and 2 who are personally present in this Court that the Respondent No. 2 will take a proper care of Petitioner No. 2 and having no complaint whatsoever against the Respondent No. 2.

5. The Petitioner No. 1 further states in the affidavit that at the time of the lodgement of the report, he was not aware that the Petitioner No. 2 and Respondent No. 2 are in love in relationship and he further states that before this Court on attaining the age of majority, the Petitioner No. 2 was entitled to chose a life partner and she had already chosen Respondent No. 2 as her life partner.

6. On these grounds, the present Petition is filed in this Court for quashing of the report lodged at the instance of Petitioner no. 1 against the Respondent No. 2 FIR bearing Crime no. 160 of 2019 as well as further proceedings in POCSO Special Case No. 333 of 2019 pending before learned Sessions Court.

7. Learned APP submitted to this Court that the serious offences are attracted against the Respondent no. 2 though it is in the present matter the provisions of POCSO Act are attracted against the Respondent No. 2, at the same time we cannot loose sight of the fact that is post lodgment of the report and attaining the age of majority by the Petitioner No. 2 marriage between the Petitioner No. 2 and Respondent No. 2 was solemnized, the couple is now residing under one shelter and leading

peaceful life as a husband and wife and the Petitioner No. 1 informant complainant himself before this Court for quashing of the FIR and the proceedings. In such state of factual circumstances, the continuity of the proceedings would be nothing but futile exercise and in our opinion, the case is made out for exercise power of this Court under Section 482 of the Criminal Procedure Code so as to meet ends of justice.

8. Accordingly, it may not be out of place to refer the judgment of the Apex Court in the case of Gian Singh V/s. State of Punjab & Anr., reported in 2012(10) SCC 303.

9. Accordingly, the Petition is allowed in terms of prayer clause “a” and is disposed of.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)