

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.957 OF 2021

Shwetang Bhaskar Nikalje And Ors. .. Applicants  
v/s.  
The State of Maharashtra & Anr. .. Respondents

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Ms. Shubhangi Parulekar, for the Applicants.

Mr. J.P. Yagnik, APP, for State/Respondent No.1.

Ms. Divya Parab, for Respondent No.2.

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CORAM: NITIN JAMDAR &  
N.R. BORKAR, JJ.

DATE : 27 JULY 2022.

P.C:-

By this application, the Applicants are seeking to quash the FIR dated 16 April 2018 bearing C.R. No. 77 of 2018 lodged by Respondent No.2 under Section 363, 366A, 212, 376, 109 of the *Indian Penal Code* and under Section 3, 4, 6, 7, 8, 16 and 17 of *Protection of Children from Sexual Offences Act, 2012*, under Section 3(25) of the *Arms Act* and the proceedings in Special Sessions Case No.319 of 2018 before the Special Judge, Pune.

2. The grounds given for quashing is the consent of

Respondent No.2. An affidavit is also sought to be tendered on behalf of the daughter of Respondent No.2, the survivor, that she is giving consent.

3. We have perused the FIR on the context of this request made. In the FIR it is stated that the daughter of Respondent No.2 was 17 years and 9 months old. She was staying with her mother-the complainant. She had developed a relationship with Applicant No.1, who was with criminal background, a married person with a son. On 7 April 2018, according to the complainant, her daughter was kidnapped by Applicant No.1. She had given complaints to the Commissioner of Police that Applicant No.1 is a known criminal and he had criminal record and he has kidnapped his daughter.

4. The allegations are that the daughter of Respondent No.2 was kidnapped and confined by Applicant No.1 for which offence under the Arms Act is also applied. The learned APP points out that Applicant No.1 has antecedents. This fact is also mentioned in the complaint.

5. Therefore, it was in a calculated manner that Applicant No.1 has taken advantage of the young age of the daughter of the complainant. In the affidavit filed by the daughter of the complainant there is even a reference to sexual intercourse that is at the time of the

daughter of Respondent No.2 was a minor. It is stated that daughter of Respondent No.2 is now major and she is married. This may be so, but the manner in which the incident has taken place, it cannot be said that it is not the offence against the society, where Applicant No.1 with criminal background, who is already married with a son, took advantage of a minor, kidnapped and committed sexual intercourse, committed the offence against the society. Therefore, we are not inclined to accede to the request of quashing the FIR by consent.

6. The writ petition is, accordingly, rejected.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)