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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1795 OF 2019**

Pandurang T. Phale ... Applicant
V/s.
The State of Maharashtra and ors. ... Respondents

Mr. Lokesh Zade i/b Mr. Adwait Bhonde for the Applicant.
Mr. K.V. Saste, APP for the Respondent / State.
Mr. Ameya Dange for Respondent Nos.2 and 3.

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

DATE : 5 JULY 2022.

P.C.

. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.592 of 2018 (hereinafter referred to as “FIR”, for short) dated 27 September 2018 registered at Kondhwa Police Station, Pune against the Applicant for the offences punishable under Sections 366 and 376 of the Indian Penal Code, 1860 (for short ‘IPC’) and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2013 (for short ‘POSCO Act’) and the Special Child Protection Case No. 499 of 2018 pending on the file of Special Judge, Pune.

2. The learned Counsel for the Applicant and the Respondent Nos.2 and 3 jointly submit that the Applicant and the Respondent No.3 - victim girl got married on 25 November 2019. Copy of the Marriage Certificate is placed on record. It is submitted that the Applicant and Respondent No.3 - victim girl are leading happy married life and even they are blessed with girl child. It is submitted that if the prosecution in question is allowed to be continued it would hamper their marital life and thus in the interest of justice it be quashed.

3. Today, we have interacted with the parties. Respondent No.3 has stated that she has solemnized marriage with the Applicant out of her own free will. Respondent No.3 has stated that she has no objections if the prosecution in question is quashed. Respondent No.2, the mother of Respondent No.3 and first informant in the present case, has stated that she has also no objections if the prosecution in question is quashed. They have filed the consent affidavits on record.

4. The learned APP was asked to submit verification report of concerned police station in relation to claim made by the parties, that they got married. Today, the learned APP has submitted the report to that effect which is consistent with the claim made by the parties.

5. The statement of Respondent No.3 reveals that the Applicant and Respondent No.3 were in love with each other and physical relationship between them was consensual. Considering the fact that the Applicant and Respondent No.3 got married, she is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Nothing fruitful therefore will come out of the prosecution in question. Apart from it, if the prosecution is not quashed it will bring discord in their marital relationship.

6. The Hon'ble Supreme Court in identical situation quashed the FIR in *Ananda D.V. vs. State and anr.*¹. Considering the overall facts and circumstances of the present case, in our view, it would be in the interest of justice to quash the prosecution in question. The Criminal Application is thus allowed in terms of prayer clause (a), which reads thus:

“a) The First Information Report in Crime Register No.592 of 2018, registered with the Kondhwa Police Station, Pune and the resultant proceedings in Special Child Protection Case No. 499 of 2018, pending at the files of the Ld. Special Judge, Pune against the present Applicant, Mr. Pandurang Tukaram Phale, may be quashed.”

7. Criminal Application is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

¹ Criminal Appeal Nos.394-395 of 2021 decided on 12 April 2021