

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

CRIMINAL APPLICATION (APL) NO. 365 OF 2022

Siddharth s/o. Ramesh Wankhede,
Aged about 35 yrs., Occ. : Private,
R/o. Plott No.91, Shlesha Apartment,
Karve Nagar, Wardha Road, Nagpur.

---APPLICANT

---VERSUS---

1. The State of Maharashtra,
Through P.S.O. P S. Jaripatka,
Dist. Nagpur.

2. Sau. Roma w/o. Kunal Wankhede,
(Roma d/o. Ramesh Janbandhu)
Aged about 30 years, Occ. : Private,
R/o. C/o. Deshbratar, Near Mota
Buddha Vihar, Indora, Nagpur.

---NON-APPLICANTS

Mr. A. S. Band, Advocate for the Applicant.
Mr. S. M. Ghodeswar, Addl. Public Prosecutor for the Non-applicant/State.
Mr. Y. B. Mandpe, Advocate for Non-applicant No.2.

**CORAM : V. M. DESHPANDE AND
AMIT BORKAR, JJ.**

DATE : 25.03.2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.

2. **Rule.** Rule made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicant who is brother-in-law of the non-applicant No.2 is challenging registration of the First Information Report bearing No.538/2017 registered with the non-applicant No.1 – Police Station against the applicant for the offence under Section 67 of the Information Technology Act, 2000 and consequent proceeding bearing R.C.C. No.2400/2019 pending before the 15th Jt. Civil Judge (Jr.Dn.) and Judicial Magistrate First Class, Nagpur.

4. The First Information Report came to be registered against the applicant and another one with the accusations that the applicant sent abusive message in relation to the non-applicant No.2 and the said message was defamatory in nature.

5. During pendency of the investigation, the non-applicant No.2 has amicably resolved the dispute between her and her in-laws. Today, in Criminal Application (APL) No.372/2022, this Court has quashed the First Information Report against the in-laws of the non-applicant No.2 on the ground of settlement between the parties. In the facts of the present case, we are satisfied that the First Information Report came to be registered out of the matrimonial dispute between the in-laws and the non-applicant No.2.

6. The non-applicant No.2 has filed copy of deed of settlement dated 02.02.2022. The non-applicant No.2 has also filed an affidavit stating that she has no objection for quashing the First Information Report against the applicant.

7. Today, the non-applicant No.2 is present. She has stated before the Court that she has no objection for quashing the First Information Report against the applicant.

8. On careful perusal of the allegations in the First Information Report, we are satisfied that, even if, the allegations which are accepted are correct, essential ingredients of the offence alleged against the applicant are not fulfilled.

9. The decision of the Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in *(2014) AIR SCW 2065*, 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 offence against society. The Court has to make an endeavour to find out whether the information in the First Information Report indeed discloses the ingredients of such offence and the Court can accept the settlement and quash the report/charge-sheet only after the Court is of the opinion that

such an offence is unnecessarily incorporated in the First Information Report/charge-sheet.

10. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offence under Section 67 of the Information Technology Act, 2000 are not fulfilled. Since the applicant and the non-applicant No.2 have mutually resolved their dispute, chances of conviction are bleak.

11. In view of the amicable resolution of dispute between the applicant and the non-applicant No.2, and the judgment of Hon'ble Apex Court in the case of **Narinder Singh** (*supra*), we are satisfied that there is no impediment for quashing the First Information Report against the applicant.

12. We therefore, pass following order :

The First Information Report bearing No. 538/2017 registered with the non-applicant No.1 – Police Station against the applicant for the offence under Section 67 of the Information Technology Act, 2000 and consequent proceeding bearing R.C.C. No.2400/2019 pending before the 15th Jt. Civil Judge (Jr.Dn.) and Judicial Magistrate First Class, Nagpur are quashed and set aside.

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

JUDGE

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