

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

CRIMINAL APPLICATION (APL) NO. 372 OF 2022

1. Kunal s/o. Remesh Wankhede,
Aged about 34 yrs., Occ.: Private,
2. Ramesh s/o. Narayan Wankhede,
Aged about 66 yrs., Occ. : Nil,
3. Sau. Shalini w/o. Ramesh Wankhede,
Aged about 61 yrs., Occ. Household,
4. Sau. Vaishali w/o. Savan Gawai,
(Vaishali d/o. Ramesh Wankhede),
Aged about 39 yrs., Occ.: Household,
5. Ku. Vishakha d/o. Ramesh Wankhede,
Aged about 37 yrs., Occ.: Govt. Service,

All R/o. Plot No.91, Shlesha Apartment,
Karve Nagar, Wardha Road,
Nagpur -25.

---APPLICANTS

---VERSUS---

1. The State of Maharashtra,
through P.S.O., P.S. Jaripatka,
Dist. Nagpur.
2. Sau. Roma w/o. Kunal Wankhede,
Aged about 30 years, Occ.: Private,
R/o. C/o. Deshbratar, Near Bada
Buddha Vihar, Indora, Bhandar
Mohalla, Nagpur.

---NON-APPLICANTS

Mr. A. S. Band, Advocate for the Applicants.
Mr. S. M. Ghodeswar, Addl. Public Prosecutor for the Non-applicant/State.
Mr. Y. B. Mandpe, Advocate for the 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 applicants are challenging registration of the First Information Report bearing No.179/2017 registered with the non-applicant No.1 – Police Station for the offences punishable under Sections 377, 498A, 494, 504, 506B, 323, 419, 420 read with Section 34 of the Indian Penal Code and Section 65(E) of the Information Technology Act, 2000 and further proceeding bearing R.C.C.No.3434/2017 pending on the file of the learned Judicial Magistrate First Class, Court No.07, Nagpur.
4. The First Information Report came to be registered against the applicants with the accusations that the applicants assaulted the non-applicant No.2 and harassed the non-applicant No.2 physically and mentally.
5. During pendency of the proceedings, the applicant No.1, who is the husband of the non-applicant No.2 and the non-

applicant No.2 have arrived at mutual settlement before the Family Court No.4, Nagpur in Petition No.A-220/2018. According to the said compromise terms, the applicant No.1 agreed to pay an amount of Rs.4,00,000/- as a permanent alimony which shall be deposited in Family Court, Nagpur.

6. The learned Advocate for the applicants states that the amount of Rs.4,00,000/- has been deposited with the Family Court. It is also stated in the terms of settlement that applicants and the non-applicant No.2 have resolved all their disputes and have decided to withdraw all proceedings filed against each others.

7. The non-applicant No.2 has filed affidavit on page 18 of this application wherein she has stated that she has no objection for quashing the First Information Report.

8. We have carefully considered the allegations in the First Information Report and also perused the terms of settlement and the affidavit filed by the non-applicant No.2. Today the non-applicant No.2 is present in the Court.

9. We have also considered the allegations in the First Information Report and we are satisfied that though the offences alleged against the applicants are correct, the essential ingredients

of the same are not fulfilled, even if, the allegations are taken on their face value.

10. 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.

11. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offences under Sections 377, 498A, 494, 504, 506B, 323, 419, 420 of the Indian Penal Code and Section 65(E) of the Information Technology Act, 2000 are not fulfilled. Since the applicants and the non-applicant No.2 have mutually resolved their dispute, chances of conviction are bleak.

12. In view of amicable resolution of dispute between the applicants and the non-applicant No.2, and the judgment of the 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 applicants.

13. We therefore, pass following order :

i. The First Information Report bearing No.179/2017 registered with the non-applicant No.1 – Police Station against the applicants for the offences punishable under Sections 377, 498A, 494, 504, 506B, 323, 419, 420 read with Section 34 of the Indian Penal Code, Section 65(E) of the Information Technology Act, 2000 and further proceeding bearing R.C.C.No.3434/2017 pending on the file of the learned Judicial Magistrate First Class, Court No.07, Nagpur are quashed and set aside.

ii. The non-applicant No.2 shall be entitled to withdraw the amount of Rs.4,00,000/- deposited by the applicant No.1 in Petition No.A-220/2018 before the Family Court No.4, Nagpur.

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