

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

CRIMINAL APPLICATION (APL) NO.424/2022

ABC,
Crime No. 101/21, PSO Nandgaon Peth,
Dist. Amravati. **.....APPLICANT**

...V E R S U S...

1. State of Maharashtra, through PSO
Nandgaon Peth, TQ. Dist. Amravati.
2. XYZ,
Victim in Crime No. 101/2021,
PSO Nandgaon Peth, Dist. Amravati. **...NON APPLICANTS**

Mr. S. B. Gandhe, Advocate for applicant.
Mr. S. S. Doifode, A.P.P. for non applicant no.1.
Ms D. V. Sapkal, Advocate for non applicant no.2.

CORAM:- V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.
DATE:- APRIL 5, 2022

JUDGMENT (Per: Amit B. Borkar, J.)

Rule. Rule is made returnable forthwith. Heard finally
by consent of learned counsel for the parties.

2. By this application under Section 482 of the Code of
Criminal Procedure, the applicant, who is husband is challenging

registration of FIR No.101/2021, registered with Police Station, Nandgaon Peth, Amravati for an offence punishable under Sections 120-B, 217, 218, 420, 376, 494 read with Section 34 of the Indian Penal Code.

3. FIR came to be registered against the applicant with an accusation that the applicant had performed sexual intercourse with non applicant no.2 by giving promise of marriage and assaulted her. It is alleged that the applicant got signature of non applicant no.2 on certain documents.

4. During the pendency of investigation, applicant and non applicant no.2 have performed marriage on 20.08.2020. Today, non applicant no.2 has filed affidavit stating that she has performed marriage with applicant and they both are residing together. The said affidavit is marked as "Exh.X" for the purpose of identification.

The applicant has also filed an affidavit reiterating the submission made by the wife in her affidavit. The said affidavit is marked as "Exh.Y" for the purpose of identifications.

Both the affidavits are taken on record

5. We have carefully considered allegations made in FIR and the affidavits filed by applicant and non applicant no.2, who is personally present in the Court. She states that she has voluntarily agreed to resolve the matter with the applicant since both are residing as husband and wife.

6. On a careful perusal of the matter, we are satisfied that essential ingredients of the offence alleged against the applicant are not fulfilled even if the allegations are accepted on their face value. Though it is true that offence under Sections 120-B, 217, 218, 420, 376, 494 read with Section 34 of the IPC is a serious offence, it would be profitable to refer to the judgment of the Hon'ble Apex Court in the case of Narinder Singh and Ors. Vs. State of Punjab and anr.¹ The Hon'ble Apex Court, while evaluating the inherent powers of the High Court under Section 482 of the Code of Criminal Procedure to quash criminal proceedings involving non-compoundable offences, makes it clear that the Court cannot decline to quash a criminal case in which the FIR incorporates a particular provision, which is a serious offence or an offence against the society. The Court shall make all

1 (2014) 6 Supreme Court Cases 466

endeavour whether the FIR indeed discloses the ingredient of such an offence and Court can accept the settlement and quash the FIR if the Court is of the opinion that such an offence is unnecessarily incorporated in the FIR.

7. In view of amicable resolution of the dispute between the parties, there is no impediment in quashing the FIR against the applicant. We, therefore, pass the following order.

Rule is made absolute in terms of prayer clause (II) of the petition, which reads as under:

(II) Quash and set aside the First Information Report No.101/2021 dated 31.03.2021 registered with non applicant no.1-Police Station Nandgaon Peth for the offences punishable under sections Sections 120-B, 217, 218, 420, 376, 494 read with Section 34 of the Indian Penal Code (Annexure-I), in the interest of justice.”

JUDGE

JUDGE

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