

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

CRIMINAL APPLICATION (APL) NO.990 OF 2022

Sumit s/o Harish Sidhani
Age 34 years,
Occupation – Business,
R/o. Sindhi Colony, Camp Road,
Pulgaon, District Wardha

...APPLICANT

VERSUS

1. State of Maharashtra,
through P.S.O.,
Pulgaon, Wardha
2. XYZ (Victim) in crime No.1021/2017
registered on 07.07.2017 with P.S.O.,
Pulgaon, Wardha

...NON-APPLICANTS

Shri M.V. Rai, Advocate for the applicant.
Shri M.K. Pathan, Additional Public Prosecutor for
non-applicant No.1/State.
Ms S.B. Khobragade, Advocate for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 10, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. The applicant has preferred this application under Section 482 of the Code of Criminal Procedure for quashing of First Information Report registered against the applicant and his mother by name Smt. Champa Sidhani for the offences punishable under Sections 376, 376(2)(n) and 417 of the Indian Penal Code.

3. The non-applicant No.2 (due to mandate of Section 228(a) of the Indian Penal Code name of non-applicant No.2 is not mentioned) lodged report on an allegation that she got acquainted with the applicant in the year 2016. Since 2017, they developed love affair. It is further alleged by non-applicant No.2 that the applicant on the promise of marriage subjected her for sexual assault and subsequently denied to marry.

4. On the basis of the report the offences registered against the applicant and his mother under Sections 376, 376(2)(n) and 417 of the Indian Penal Code. After completion of the investigation charge-sheet was filed and the case was committed to the Additional Sessions Judge, Wardha. During the pendency of trial, the applicant and non-applicant No.2 performed the marriage on 04/07/2022 under the Special Marriage Act, 1954. Now non-applicant No.2 is residing with the applicant. Hence he approached to this Court for quashing of the First

Information Report by invoking jurisdiction under Section 482 of the Code of Criminal Procedure, 1973.

5. Heard both the sides.

6. The applicant and non-applicant No.2 are present before the Court. We personally interacted with non-applicant No.2. She had also filed affidavit and stated on oath that there was love affair between her and the applicant since 2017. Now they had performed marriage on 04/07/2022 and she is leading happy marital life. These facts are ascertained as non-applicant No.2 is present before the Court. The applicant and non-applicant No.2 are present before the Court and identified by their respective Counsel.

7. We are conscious about the guidelines laid down by the Hon'ble Apex Court in the case of ***Gian Singh Vs. State of Punjab and another (2012) 10 SCC 303*** for exercising jurisdiction under Section 482 of the Code of Criminal Procedure wherein it is laid down that in the cases of heinous and serious offences like murder, rape, dacoity, etc. the jurisdiction under Section 482 of the Code of Criminal Procedure cannot be used to quash the proceedings even though the victim or the victim's family settles the dispute. However, considering non-applicant No.2 and the applicant out of love affair got married on 04/07/2022 and leading

happy marital life, therefore, we are inclined to exercise the jurisdiction under Section 482 of the Code of Criminal Procedure. The applicant and non-applicant No.2 are major and in the age of understanding.

8. Considering the peculiar facts, we are of the view that no purpose will be served by compelling the applicant to face the prosecution. Therefore, the application deserves to be allowed. In the result, we proceed to pass the following order :

(a) The criminal application is allowed.

(b) The First Information Report vide Crime No.1021/2017 for the offences punishable under Sections 376, 376(2)(n) and 417 of the Indian Penal Code registered against the applicant is quashed and set aside.

(c) The parties to bear their own cost.

9. Rule is made absolute in the aforesaid terms.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*