

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

CRIMINAL APPLICATION (APL) NO. 21 OF 2022

1. Sanjay S/o. Ramrao Kathwate,
Aged about 50 years,
Occupation : Private Job,
R/o. Somwari Quarter, Plot No.71/2,
Tupkar Chowk, Near Datta Mandir,
Nagpur, District – Nagpur.
2. Vaishnavi Sanjay Kathwate,
Aged 19 years, Occ. Student,
R/o. Somwari Quarter, Plot No.71/2,
Tupkar Chowk, Near Datta Mandir,
Nagpur, District – Nagpur.
3. Deepak S/o. Mahendrakumar Sahani,
Aged 22 years, Occ. Student,
R/o. Galli No.4, K.D.K. College Road,
Nandanwan, Nagpur.

....APPLICANTS

---VERSUS---

State of Maharashtra,
Through Police Station Officer,
Police Station Sakardara,
Nagpur, District – Nagpur.

....NON-APPLICANT

Mr. Swapnil K. Wankhade, Advocate for Applicants.
Mr. M. K. Pathan, Additional Public Prosecutor for Non-applicant/State.

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

DATE : 11.03.2022.

JUDGMENT : (PER - AMIT BORKAR, J.)

1. Heard.
2. **Rule.** Rule made returnable forthwith.

3. The applicant Nos.1 to 3 have filed this application under Section 482 of the Code of Criminal Procedure for challenging registration of the First Information Report No.209/2018 registered at the instance of the applicant No.2 and consequent charge-sheet No.177/2018 filed before the learned Special Judge, Nagpur in Special Case No.13/2019 for the offences punishable under Sections 354, 341, 506 of the Indian Penal Code and Sections 11 and 12 of the Protection of Children From Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act').

4. The First Information Report came to be registered against the applicant No.3 only, with the accusations that the applicant No.3 forcefully compelled the applicant No.2 to talk with him and thereafter, caught her hand and proposed to marry with her. The applicant No.2 therefore, lodged report with the non-applicant – Police Station against the applicant No.3. The Investigating Agency after completion of the investigation, filed charge-sheet against the applicant No.3 before the Special Court, Nagpur.

5. During the pendency of the proceedings before the Special Court, Nagpur, the applicants amicably resolved their dispute and have filed joint application stating that the criminal

proceedings were initiated due to misunderstanding and the applicant Nos.1 and 2 do not want to prosecute the First Information Report and charge-sheet registered against the applicant No.3. It is stated that the applicant Nos.2 and 3 are students and taking higher education.

6. We have carefully considered the allegations in the First Information Report and we are satisfied that the ingredients of the offences alleged against the applicant No.3 are not fulfilled, even if, the allegations in the First Information Report and material in the form of charge-sheet are taken into consideration. In so far as the allegation in relation to the offence under the POCSO Act is concerned, we are satisfied that the allegation does not constitute the offence alleged against the applicant No.3 for the provisions of the POCSO Act. At the time of incident, the age of the applicant No.2 was 16 years and now the applicant No.2 has attained majority and does not want to prosecute against the applicant No.3. This Court in ***Criminal Application No. 988/2019 (Taj @ Arjun S/o. Ajay Mishra and Anr. Vs. State of Maharashtra)*** decided on 22.10.2019, in ***Criminal Application No.167/2019 (Areeb Naseer Sarguroh Vs. The State of Maharashtra and Anr.)*** decided on 09.10.2019 and also in ***Criminal Writ Petition No.137/2015 (Meghnath Pandurang Divkar Vs. State of Goa and Ors.)*** decided on 28.10.2015 has quashed the First Information Report

registered under the provisions of the Protection of Children From Sexual Offences Act, 2012 on the ground of compromise between them.

7. In view of the allegations in the First Information Report and material in the form of charge-sheet are not constituting the offences alleged against the applicant No.3, we are satisfied that there is no impediment for quashing the proceedings against the applicant No.3.

8. We, therefore, pass the following order :

The First Information Report No.209/2018 registered against the applicant No.3, consequent charge-sheet No.177/2018 and Special Case No.13/2019 pending on the file of the learned Special Judge, Nagpur for the offences punishable under Sections 354, 341, 506 of the Indian Penal Code and Sections 11 and 12 of the Protection of Children From Sexual Offences Act, 2012 are quashed and set aside.

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

JUDGE

JUDGE