

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3143 OF 2022

Amol Gangadhar Shinde & ors.

... **APPLICANTS**

VERSUS

The State of Maharashtra & anr.

... **RESPONDENTS**

.....
Mr. H.D. Deshmukh, Advocate holding for
Mr. S.D. Karkare, Advocate for applicants
Mr. A.R. Kale, A.P.P. for respondent No.1.
Mr. S.S. Shaikh, Advocate for respondent No.2.
.....

**CORAM : R.G. AVACHAT AND
SANJAY A. DESHMUKH, JJ.**

DATE : 3rd AUGUST, 2023

ORDER :

Heard. This application has been filed for quashment of the F.I.R. bearing No.0396/2022, registered at Newasa Police Station, District Ahmednagar for the offence punishable under Sections 354-A, 366-A, 363, 376(2)(i), 376(2)(j), 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, Sections 4, 6, 8, 12, 17 of the Protection of Children from Sexual Offences Act, Sections 3/25 of the Arms Act and Section 66E of the Information

Technology Act and the consequential criminal proceedings bearing S.C.C. No.48/2022.

2. What can be gathered from the F.I.R. and the police papers is that, the respondent No.2 - wife (informant) was in fact emotionally involved with the applicant Amol. Although she has made very many allegations in the F.I.R. to indicate that while she was in 10th Standard, the applicant Amol used to tease her and was after her all along. It has also been alleged that, Amol and his family members had even once kidnapped her and took her to their residence. A video shooting of some acts between her and Amol was made by brother of Amol. It has further been averred that, on 1/9/2017, all the family members of applicant Amol went to the parental house of the informant with a proposal of marriage with Amol. They were in fact not agreeable. They, however, had to give consent for the marriage. Accordingly, marriage taken place on 2/9/2017. Thereafter she was harassed and ill-treated in connection with demand for Rs.5 Lakhs to be brought from her parents. The names of all the applicants have been given in the F.I.R.

3. It has further been averred by the informant that all the applicants turned her out of the matrimonial home after beating her. It has further been averred that, in February 2022, she was asked to claim share in the property of her father. While she was driven

out of the matrimonial home, she was relieved of all her Stridhan.

4. Based on the aforesaid F.I.R., Crime came to be registered and investigated as well. She gave her supplementary statement on 30/6/202, wherein very many allegations and averments have been made.

5. The learned A.P.P. and learned counsel appointed to represent the respondent No.2 have strong reservations to allow the application. According to them, the F.I.R. is replete with very many incidents of ill-treatment and offence of rape also. At the relevant time, the informant was below 18 years of age. They would further advert our attention to the statements of her relations. When we expressed inclination to allow the application, they came around to submit that, at least for offence punishable under Section 498-A, let the husband face the trial.

6. Considered the submissions advanced. Perused the F.I.R. and the related papers. Admittedly, the informant got married with the applicant Amol in September 2017. For about 5 years she stayed at her matrimonial home. It appears that, only with a view to take revenge, all the past incidents those allegedly took place before the marriage have been dug out. It has been alleged in the F.I.R. that while the informant was in 10th Standard, the applicant

Amol used to tease her and was after her all along. If this was so, we fail to understand as to how she gave consent to marry him. Thereafter she was in marital relations for about 5 years. The couple has been blessed with a child. We fail to understand as to why Section 376 has also been invoked. The same suggests that the respondent wife is bent upon to see her husband and in-laws are taught a lesson.

7. The birth certificate of respondent No.2 wife is on record. The same suggests she was major. If at all any offence took place with her while she was below 18 years of age, necessarily the crime has been registered after about 6 - 7 years thereafter. Even the F.I.R. has been lodged three months after she was allegedly turned out of her matrimonial home. Although the allegations pertaining to offence punishable under Section 498-A have been averred in the F.I.R., we find that the F.I.R. has been filed with an intention to see the applicants are harassed. When the veracity of all the averments in the F.I.R. is seriously in doubt, interest of justice demands grant of the application.

8. In view of the above, the application is allowed in terms of prayer clauses (B) and (B-1) to the extent of the present applicants.

9. Fees of Mr. S.S. Shaikh, learned Advocate appointed for respondent No.2 is quantified at Rs.10,000/- (Rupees ten thousand).

(SANJAY A. DESHMUKH, J.)

(R.G. AVACHAT, J.)

fmp/-