

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1298 OF 2020

Chandan Maruti Lokhande

... Petitioner

Versus

The State of Maharashtra and anr.

... Respondents

.....

Ms. Rekha Musale i/b Nitin Satpute for the Petitioner.

Mr. Ajay Patil, APP for the State.

Ms. Keral Mehta for Respondent No. 2.

.....

**CORAM : SMT. ANUJA PRABHUDESSAI &
N.R. BORKAR, JJ.**

DATED : 9 JANUARY 2024

P.C. :-

Learned counsel for the petitioner seeks leave to amend the prayer clause (b) by deleting "Section 452 and adding Section 420" and further delete words "r/w Section 4 of IPC. Of Protection of Children from Sexual Offence Act, 2019" and to delete word "Greater Bombay and add Pune" in prayer clause (b), (c) and (d). Leave granted. Amendment to be carried out forthwith.

2. Heard finally with consent of the learned counsel for the respective parties.

3. The petitioner seeks to quash the FIR No. 323 of 2016 registered at Sinhgad Road Police Station for offences under Sections 376, 420 of the Indian Penal Code and Sessions Case No. 509 of 2017 arising therefrom and pending on the file of learned Sessions Judge, Pune.

4. We have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. The facts narrated in the FIR reveal that the respondent No. 2 and the petitioner were known to each other. The respondent No. 2 claims that her father had decided to get her married and was looking for a groom. She was not ready for the marriage and sought help of the petitioner to avoid the marriage. She claims that the petitioner requested that they would pretend to be married and forward some photographs of their marriage to her parents. Accordingly, they got married in a temple at Alandi. Subsequently, they got their marriage registered in the office of the Sub Registrar at Sinhgad. The

respondent No. 2 claims that the marriage was sham. There was no intent to live as husband and wife and that they feigned to be married only to put her parents off the track.

6. The respondent No. 2 claims that the petitioner took undue advantage of the situation and sexually exploited her on the basis of the sham marriage certificate. Even after she returned home, the petitioner pressurized her in continuing the relationship, though they were not legally married. On the basis of these allegations, the aforesaid crime came to be registered.

7. The records reveals that the first informant was an educated girl of 22 years of age. The material on record indicates that the petitioner and respondent No. 2 had got married as per Hindu Religious Rites in April 2016 and she was living with the petitioner in a rental flat at Sinhgad. The father of the respondent No. 2 had lodged a missing complaint on 13 May 2016 and on the same date the petitioner and respondent No. 2 registered their marriage

in the office of Sub Registrar at Sinhgad.

8. The records further indicates that the respondent No.2 had subsequently filed a divorce petition being petition No. 449 of 2017 before the Family Court-2, Pune. The said petition was initially filed under Section 12(1)(c) of the Hindu Marriage Act, which was subsequently converted to 13-B Petition. The said petition has been allowed and the marriage has been dissolved. In the consent terms filed in the said petition, the respondent No. 2 had conceded that they were married as per Hindu Religious Rites. It was stated that the divorce petition was filed in view of severe conflicts between them.

9. The consent terms filed before the family Court as well as other material on record clearly indicate that the petitioner and respondent No. 2 were legally married and that they had indulged in sexual relationship as a married couple.

10. The FIR as well as other material on record even if accepted in entirety does not constitute offence under

Section 375 or 420 of the Indian Penal Code. In such circumstances, continuance of criminal proceedings will be nothing but abuse of process of law. Hence, this is a fit case to exercise powers under Article 226 of the Constitution of India and to quash the proceedings. Hence, the Petition is allowed.

11. The FIR No. 323 of 2016 registered at Sinhgad Road Police Station for offences under Sections 376, 420 of the Indian Penal Code and Sessions Case No. 509 of 2017 arising therefrom and pending on the file of learned Sessions Judge, Pune stands quashed.

(N.R. BORKAR, J.) (SMT. ANUJA PRABHUDESSAI, J.)

Digitally
signed by
MANGALTAI
JAYWANT
JADHAV
Date:
2024.02.02
18:02:29
+0530