



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

CRIMINAL APPLICATION (APL) NO.203/2020

(Ravi S/o Ramkrushna Malve Vs. State of Maharashtra and another)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Atharva Khadse, Advocate h/f Mr. S.P. Bhandarkar, Advocate for the applicant.

Mr. H.D. Futane, A.P.P. for non-applicant No.1/State.

Ms. Astha Sharma, Advocate h/f Mr. P.R. Agrawal, Advocate for non-applicant No.2.

CORAM: SMT. VIBHA KANKANWADI & MRS.VRUSHALI V. JOSHI, JJ.
DATED: 10.7.2024.

Affidavit on behalf of non-applicant No.2 has been filed who says that there is a settlement between her and the applicant. By our order dated 4.7.2024 we had directed the parties to appear before the Registrar (J.). We had directed the Registrar (J.) to verify and submit the report. Accordingly we have received the report. He has verified the identity of the parties and also the terms of settlement.

2. The F.I.R. that has been filed by non-applicant No.2 was registered under Sections 354, 354A and 506 of Indian Penal Code of which Sections 354 and 354A are not compoundable. The informant has now settled the matter and reiterates that the differences have been solved. She has no objection for quashing the F.I.R.

3. We have considered the reply on behalf of the State. It appears that in view of contents of the F.I.R. as well as statement of the victim under Section 164 of Code of Criminal Procedure the Investigating Officer has added

Section 8 of Protection of Children from Sexual Offences Act (for short “POCSO Act”). That means the Investigating Officer who had collected the school leaving certificate of the victim girl and taking into consideration the date of birth considered her to be “child” as per POCSO Act. Now the question is whether to permit quashment of the F.I.R. on the basis of settlement. It appears that the investigation is complete and chargesheet is ready to be filed.

4. Learned A.P.P. has made available the evidence that has been collected during the course of the investigation, however, we could see that the F.I.R. is in detail and the said copy was not produced along with the writ petition, only the gist in the printed form was produced. The statement of the informant under Section 164 is also been taken before learned Magistrate. It appears to be the prosecution story that the girl had informed about the alleged acts of the applicant to her mother.

5. The F.I.R. has been lodged when non-applicant No.2-informant had became adult that is completed 18 years of age and then she says that since she was in 10th standard the acts were done against her. She also stated that she had not informed the incident even to the mother and then she has in one of the statements stated that when she heard that the petitioner was to come to stay with them, who appears to be her uncle, then she disclosed the said fact to her mother. Thus there appears to be delay in lodging the F.I.R. as regards the offence under Section 8 of POCSO Act is concerned. Now as regards the settlement is concerned it has been stated to be arrived at when she has now become adult. Now she knows consequences of her act and she says that she had lodged the

F.I.R. in the fit of anger. She herself is saying that the story mentioned in the F.I.R. is not true. Under this circumstance, though in the normal course we would have not allowed the offences under POCSO Act to be settled between the parties as those offences are sensitive and some may amount to heinous crimes. We have no hesitation now, taking into consideration the fact that girl is now adult and understands the consequence of her act and the statement made by her on oath, therefore, this is a fit case where we should exercise our inherent powers under Section 482 of Code of Criminal Procedure as it would be now a futile exercise to ask the applicant to face the trial. We are constrained to observe that a girl or lady is not supposed to file false complaint or complaint which is not based on true facts in a fit of rage or anger. Due to such kind of complaints/F.I.Rs. injustice is caused and unnecessarily a person would suffer imprisonment or would be taken in custody which will ultimately defame or cause injury to his reputation. We could have then imposed costs on the non-applicant No.2 for filing such complaint which is not based on true facts but taking into consideration her age we are not imposing the costs but at the same time since the machinery has been used we would direct the applicant to deposit costs of Rs.10,000/- to the High Court Legal Services Sub-Committee Nagpur Bench within a period of two weeks from today. On the said condition, the application stands allowed and disposed of. The F.I.R. No.1149/2019 dated 8.12.2019 at the behest of non-applicant No.2 registered with non-applicant No.1 Gadge Nagar Police Station, Amravati, District Amravati for the offence punishable under Sections

354, 354A and 506 of Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act stands quashed and set aside.

(MRS.VRUSHALI V.JOSHI, J.)

(SMT. VIBHA KANKANWADI, J.)