



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

Criminal Application No. 3223 OF 2019

1. Mujahid Iqbal Sayyed
Age : 31 years, Occu. Business
Resident of Anjuman Chawl, Gosaviwadi,
Nasik Road, Nasik.
2. Shaista @ Sheetal w/o Mujahid Sayyed,
Age : 24 years, Occu. Education,
Resident of as above. **...Applicants**

Versus

1. The State of Maharashtra
Through Parola Police Station,
2. Jawaharlal Motilal Jaiswal
Age 57 years Occu. Business,
Resident of Danabazar, Peth,
Nagarpalika Chowk,
Parola, District Jalgaon. **...Respondents**

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Advocate for Applicants : Mrs. A.N. Ansari

APP for Respondent No.1/State : Mr. A.V. Lavte

**Advocate for Respondent No.2 : Mr. M.G. Kochar h/f
Mr. B.R. Waramaa**

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**CORAM : SANDIPKUMAR C. MORE &
MEHROZ K. PATHAN, JJ..**

DATE : 17th OCTOBER, 2025

O R D E R [Per Mehroz K. Pathan, J.] :

1. The Applicants - Mujahid and Shaista @ Sheetal

have filed present application for quashing of the present FIR No.277/2019 dated 25.08.2019 registered with the Parola Police Station, District Jalgaon under Sections 366 and 493 of the Indian Penal Code. This Court vide its order dated 25.09.2019 had issued notice to the complainant/father and has passed the interim order as under :

“1. Heard the learned counsel for applicants. Seen the F.I.R. Seen the two affidavits filed by applicant No.2.

2. Applicant No.2 is major and her affidavits show that she has adopted Islam and after adopting Islam she has married with applicant No.1 and she is living with applicant No.1. The F.I.R. is given by her father in which he has given her age as 23 years and he has stated that there could not have been marriage of applicant No.2 with applicant No.1. In view of the contents of the affidavits, this Court holds that interim relief needs to be given like stay to the investigation. So, investigation of C.R. No.277/2019 is stayed until further orders.”

2. The case of the prosecution is as under :

. The complainant is the father of Applicant No.2 and has registered the F.I.R. on 25.08.2019 being FIR No.277/2019 for the offences punishable under Section 366 and 493 of the IPC against the Applicant No.1/Mujahid for kidnapping, abducting and inducing his daughter Applicant No.2 herein to compel her for marriage. It is stated in the complaint that his daughter Applicant No.2/Sheetal @ Shaista was doing a private job at Nashik. That on 03.08.2019 she was at Parola for Raksha Bandhan festival and after the

festival she left Parola village on 16.08.2019 at about 02:30 pm., informing that she was leaving for Nashik. However when the complainant and his brother Vinod visited Nashik on the next day to find where the Applicant No.2 (daughter of complainant) Shaista @ Sheetal was living at Nashik, they found that there was a lock at the house where Sheetal was staying. They called Sheetal on her phone, however they were not able to establish the contact. They had searched for the Applicant No.2 till 20.08.2019, however she could not be found. The complainant's brother Vinod Jaiswal had thus approached the police station and informed about the missing of the Applicant No.2 i.e. daughter of the complainant Jawaharlal Jaiswal. The said missing report was being investigated into and as such they received an information that the missing daughter Applicant No.2 was working in S.J. Creations Ashoka Marg which was run by the Applicant No.1/Mujahid. The complainant thus inquired about the Applicant No.1/Mujahid and got information that Applicant No.1/Mujahid was already married with one Jabin Mujahid Sayyed and was having three children. The complainant further received an information that Mujahid had applied for registration of marriage with the Applicant No.2/Shaista @ sheetal and therefore visited the sub-Registrar Office. The complainant found that the application filed by Applicant No.1 and

2 with the sub-Registrar (Marriage) was accompanied by a Nikahnama. The complainant was assured that Applicant No.1 was already married and had three children out of wedlock. Despite this, Applicant No.1 was allegedly forcing Applicant No.2, Shaista @ Sheetal, to live with him by falsely assuring that he had married her thereby inducing the complainant's daughter, Shaista @ Sheetal, to compel her for marriage. The complainant has thus prayed for appropriate action against Applicant No.1, for abducting or inducing the complainant's daughter/ Applicant No.2-Shaista @ Sheetal and compelled her for marriage with the Applicant No.1.

3. The police authorities have thus registered an offence punishable under Section 366 of the IPC for kidnapping, abducting, or inducing a woman to compel her into marriage. Additionally, an offence under Section 493 of the IPC has been registered for deceitfully causing Applicant No.2, who is not lawfully married to Applicant No.1, to believe that she is legally married to him, thereby inducing her to cohabit and engage in sexual relations under that false belief.

4. The Applicants have thus approached this Court,

with a prayer to exercise powers under Section 482 for quashing of the FIR on the ground that the Applicant Nos. 1 and 2 are happily married and are staying together with their consent. It is the contention of the Counsel for the Applicants that Applicant Nos.1 and 2 are adults who have voluntarily made a choice to get married with each other and thus no offence under Section 366 i.e. inducing a women to compel her for marriage, is made out against the Applicant No.1.

5. It is further submission of the Counsel for the Applicants that the Section 493 of the IPC refers to a situation where the accused deceitfully induces a woman to believe that she is lawfully married to him, thereby causing her to cohabit or have sexual relations with him under that false belief. The Applicant No.2/Shaista @ Sheetal, daughter of the complainant, has herself approached this Court for quashing of the FIR against the Applicant No.1 and as such offence under Section 493 is also not made out as against the Applicant No.1.

6. It is the submission of the Counsel for the Applicants Mrs. Ansari that this Court while issuing notice in the present application filed under Section 482 Cr.P.C., was pleased to pass an interim order that

the crime itself shall not be investigated as no offence was made out. However the Investigating Officer has been harassing the Applicant No.1(husband) and the Applicant No.2(wife), compelling them to visit the police station and coercing the Applicant No.2 to make an adverse statement against the Applicant No.1 that she had been compelled to perform the marriage by the Applicant No.1. It is therefore submitted by the learned Counsel that the FIR if allowed to be continued, the same would amount to abuse of process of law and this Court can exercise powers under Section 482 Cr.P.C., to prevent the abuse of process of law and to secure the ends of justice. The submission is therefore that the prima facie offences are not made out from the plain reading of the FIR itself, the same calls for an interference of this Court to quash the FIR.

7. The learned Counsel for the Respondent No.2 and the learned APP opposed the application for quashing of the FIR. It is the submission of the complainant as well as learned APP that the Applicant No.2/Shaista @ sheetal had been forced and compelled to perform the marriage with the Applicant No.1 and a clear offence under Section 366 of IPC is made out. It is further submitted by the learned Counsel for Respondent No.2 that the cohabitation caused by the Applicant No.1 is

deceitful in nature, which has induced a belief in the Applicant No.2 that she is legally married to the Applicant No.1. The same being punishable under Section 493 IPC, prima facie offence is made out and as such the application under Section 482 Cr.P.C., may not be maintainable. It is further submitted that the powers under Section 482 of the Cr.P.C. are to be exercised sparingly, and only in the rarest of rare cases. The Applicants have failed to make out any case under the seven exceptions carved out by the Hon'ble Apex Court in the judgment reported in AIR 1992 SC 604 and as such the application is liable to be rejected.

8. We have considered the submissions made by the learned Counsel for the Applicants Mrs. Ansari, learned Counsel for the Respondent No.2 Mr. Kochar holding for Mr. Waramaa and learned APP Mr. Lavte appearing for the State.

9. The perusal of the FIR would show that there are specific allegations about the Applicant No.2 being abducted by inducing her to compel her to perform marriage with the Applicant NO.1. The age of the daughter of the complainant/Shaista @ Sheetal is shown as 23 in the FIR. It is further allegations in the FIR that the Applicant No.1 had caused the Applicant No.2 to believe that she is lawfully married by deceit. It

is found that during the pendency of the present application, the Applicant No.2 has filed her separate affidavit on record, thereby stating that she had performed the marriage with Applicant No.1/Mujahid on 30.07.2019 and the concerned Kazi had issued the Nikahnama which is already annexed to the application. It is further stated by the Applicant No.2 (daughter of the complainant) that she is residing with Mujahid as a wife and she is having a male child from him aging 4 and ½ years. It is further stated that after the marriage with Applicant No.1/Mujahid, she is living a normal married life. It could be seen from the documents annexed to the application that the Applicants have executed an affidavit on 30.07.2019, thereby stating that they are of consenting age and they are taking decision to get married to as they are having love relationship for almost three years. The Applicants have thus moved an application before the Sub-Registrar of Marriage at Nashik, applying for registration of their marriage and the proposed date of registered marriage was given from 08.09.2019 to 07.11.2019.

10. Thus from the record it reveals that the Applicants have performed their marriage with each other and that the Applicant No.2 (daughter of the complainant) is residing with the Applicant No.1 as

per her own free will. Section 493 of the IPC mandates deceitful intention as an essential element on the part of the husband which led to believe to the women that she is lawfully married to him, but in reality, she is not. Such a deceitful intention must exist on the part of the husband at the time of marriage. This means that if the husband is having no deceitful intention at the time of marriage and he believed that he is lawfully marrying the women, then he may not be liable to be punished under Section 493 IPC. The separate affidavits filed by the Applicant No.2 would show that the Applicant No.2/Shaista @ Sheetal (daughter of the complainant) has married the Applicant No.1 as per her own will. The common application filed by the Applicants for quashing of the FIR is a testimony to the fact that the marriage was voluntary and that there was no deceitful means adopted by the Applicant No.1, to induce Applicant No.2 to believe that she is lawfully married to Applicant No.1, when in fact she is not. The Applicant No.2 was aware of the fact that she was lawfully getting married to the Applicant No.1 and was cohabiting with him and allowing him to have sexual intercourse. The Applicants are having a child out of the said wedlock. Thus the ingredients i.e. the false belief in which the women is kept by a man is not fulfilled.

11. We have called for the investigation papers and could see that the Investigating Officer has failed to even record the statement of the victim/Applicant No.2 herein, who was alleged to have been kidnapped/abducted by the Applicant No.1, to compel her to perform marriage with him. The investigation papers do not show that the statement of the Applicant No.2 (wife) which is crucial to decide whether the offences under Sections 493 and 366 IPC are made out. We have inquired with the learned APP that about recording of the statement of the Applicant NO.2 it was informed by the learned APP on instructions from the Investigating Officer that the Applicant No.2 is not ready to visit the police station for recording her statement. The conduct of the Applicant No.2 also thus reflects that the Applicant No.2 is happily married and is residing with the Applicant NO.1 on her own will.

12. Insofar as the offence under Section 366 is concerned, it is almost a settled law that Section 366 applies only when the women is abducted with an intention to compel her for marriage or lawful intercourse. The affidavit filed by the Applicant No.2 herein, would clearly show that the Applicant No.2 (aged 23 years) had the intention to get married with the Applicant No.1 and therefore the offence under

Section 366 IPC is also not made out from plain reading of the FIR.

13. The Hon'ble Supreme Court in the recent judgment reported in 2025 SCC Online SC 353, Tilku alias Tilak Singh v. State of Uttarakhand, was pleased to set aside the conviction under Section 366 IPC on the ground that the voluntary actions, her proximity to the age of majority, and her capacity to discern right from wrong, the ingredients of kidnapping or abduction were not made out.

14. It is almost a settled law that the powers under Section 482 are to be exercised sparingly and that too in cases where no offences are made out from the reading of the FIR or the investigation papers. In the present case, the reading of the FIR, the perusal of the affidavit and the investigation papers, clearly shows that no offence under Section 366 IPC for kidnapping of the Applicant No.2 to compel her for marriage is made out, as also the offence under Section 493 IPC is not made out as against Applicant No.1.

15. As a result thereof, we are of the considered opinion that the continuation of the proceeding in pursuance to the FIR No.277/2019 for the offences

under Sections 366 and 493 of IPC, would amount to abuse of process of law. We are of the opinion that this is a fit case where the powers under Section 482 Cr.P.C. could be exercised, hence the following order :

ORDER

(a) The First Information Report No.277/2019 dated 25.08.2019 registered with the Parola Police Station, District Jalgaon under Sections 366 and 493 of the Indian Penal Code is hereby quashed and set aside.

(b) The Criminal Application is allowed in the above terms and disposed of.

MEHROZ K. PATHAN
JUDGE

SANDIPKUMAR C. MORE
JUDGE

Najeeb/..