

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3106 OF 2015

Yash Deepak Desai

..Petitioner

v/s.

The State of Maharashtra & Anr.

..Respondents

Mr. Sartai Shaikh for the Petitioner.

Mr.Taraq Sayed for the Respondent No.2.

Mrs.M.M.Deshmukh, APP for the Respondent/State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : AUGUST 14, 2015.**

P.C.

1. Heard learned Counsel for the petitioner, learned Counsel for the respondent no.2 and learned APP for the State.
2. This petition is filed resorting to the provisions of Article 226 of the Constitution of India r/w. with the provisions of Section 482 of Cr.P.C. for quashing the proceeding of C.R. No. 192 of 2015, registered at the instance of respondent no.2 with the V.P. Road Police Station.

3. Pending investigation, parties settled their dispute amicably and have approached this Honourable Court to quash and set aside the subject FIR by consent.

4. The respondent no.2 has filed affidavit dated 31st July, 2015. In paragraph 5 of the affidavit an averment is made that the petitioner and the respondent no.2 were having love affair and the relationship was consensus. It is further stated that FIR came to be filed due to pressure from the respondent no.2's father. In para 7 of the affidavit she has given no objection for quashing the proceeding of the said FIR.

5. Respondent No. 2 is personally present before the Court. On specific query made by us, she has stated that the talks of her marriage are going on and therefore she has no objection to quash the present FIR. She has submitted that she has gone through the affidavit and understood the contents thereof. She has made the said statement in the affidavit on her own free will, without there being any pressure or undue influence.

6. We have independently gone through the FIR. The FIR discloses that the respondent no.2 victim was major and that the

relationship between herself and the petitioner were consensus. The offence under Section 376 IPC is therefore not made out. The victim girl has stated that she wants to start her life afresh and her marriage talks are in progress, and the continuation of present proceeding would hinder her future marital prospects.

7. In the circumstances, in our opinion, I would be in the interest of the respondent no.2 to quash and set aside the subject FIR. The allegation made against the petitioner is personal in nature and no element of public law is involved in the crime. In the circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

8. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the criminal proceedings.

9. Accordingly, petition is allowed in terms of prayer clause (b).

9. As a condition precedent for this order to take effect, the Applicant shall pay costs of Rs.25000/- (Rupees Twentyfive Thousand Only) to the cancer hospital, namely **Shanti Avedana Sadan**, situated at 216, Mount Mary Road, Bandra (West), Mumbai 400 050 and produce a copy of the receipt on the file of this petition within a period of two weeks from today.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)