

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3480 OF 2015

Jaydeep S. Chaudhary

..Petitioner.

Versus

State of Maharashtra & Anr.

..Respondents.

Mr. Haresh Jagtiani with Mr. Siddhesh Bhole, Mr. Nikhil Sansare, Mr. Archan Shah with Mr. Royden Fernandes i/by Haresh Jagtiani and Associates, advocates for petitioner.

Mr. Niranjan Mundargi i/by Bhakti Deshpande, advocates for respondent no.2.

Mrs. U.V.Kejriwal, APP for the State.

Coram : RANJIT MORE &
R.G.KETKAR, JJ.

Date : **8th September, 2015.**

P. C. :

Heard Mr. Jagtiani the learned Senior Counsel for the petitioner and Mr.Mundargi the learned counsel for respondent no.2 and the learned APP for the State.

2 This petition is filed under Article 226 of the Constitution of India for quashing and setting aside the F.I.R. bearing C.R.No.210/2015 registered with Amboli Police Station at the instance of respondent no.2 for the offence punishable under Sections 376, 354(c), 420, 506 of the Indian Penal Code, 1860.

3 F.I.R. reveals that in the year 2006 respondent no.2 got acquainted with the petitioner as they were working in the

same bank. Petitioner represented respondent no.2 that he has differences with his wife and will be soon divorcing her. Petitioner also used to tell respondent no.2 that he liked respondent no.2 and wanted to live with her. In September, 2007, respondent no.2 re-located to Bombay for new job. Petitioner told that he also wanted to get transfer to Bombay and to live with respondent no.2. However, petitioner got transferred to Delhi. Respondent no.2 used to visit petitioner at Delhi and during this period, they developed good friendship and got involved in physical relationship. F.I.R. also reveals that respondent no.2 found that there were no differences between the petitioner and his wife and they were not getting divorced. Petitioner, however, repeatedly assured respondent no.2 that he was getting divorce from his wife and thereafter would marry her and, therefore, physical relationship was continued. Respondent no.2 trusting petitioner continued physical relationship with him. In May, 2015, petitioner's wife contacted respondent no.2 and told her that she is not getting divorce from petitioner and warned to stay away from their married life. Respondent no.2 thereafter confronted petitioner. However, he could not give convincing answers. Respondent no.2 thereafter requested petitioner not to contact her anymore.

4 F.I.R. further discloses that petitioner then started sending respondent no.2 what's app messages, SMSs and E-mails and told her that he is not going to stop contacting her. He told her that he has video recordings of their private movements especially recordings of their physical relations and warned her that if she

refuses to have physical relations with him, he would upload those recordings on what's app and face-book. In view of these threats and coercion, respondent no.2 agreed to have physical relations with him against her wish. Respondent no.2 was requesting petitioner time and again to give her video recordings of their physical relations. But petitioner used to avoid the same by promising her that he would give it to her after a few days.

5 Thus, first part of the F.I.R. prima-facie discloses that physical relationship between the petitioner and respondent no.2 was consensual. However, second part of the F.I.R. discloses that post 2006, petitioner continued physical relationship with respondent no.2 under the threat. Allegations made in the F.I.R. will have to be accepted on its face value. At this stage, the question whether the physical relationship maintained by the petitioner with respondent no.2 as revealed in second part of the F.I.R. was without consent and will of the respondent no.2 cannot be decided at this stage. It is a matter of proof. Same can be decided at the time of trial after appreciating evidence on record.

6 Reference also must be made to the report dated 8.9.2015 of the Police Inspector, Amboli Police Station. Report shows that laptop, mobile and pen drive of the petitioner were seized under the panchanama and it is found that same contains video recording of physical relationship of the petitioner with respondent no.2. Investigation into the F.I.R. is in progress. We are, therefore, not inclined to quash the subject F.I.R. at this stage.

7 Petition, accordingly, stands dismissed.

[R.G.KETKAR, J.]

[RANJIT MORE, J.]

CERTIFICATE

**Certified to be true and correct copy of the original signed
judgment/order.**