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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1213 OF 2015

Permod @ Akhl Satpaul Sharma	..	Applicant
V/s.		
The State of Maharashtra and anr.	..	Respondent.

Ms. Bhakti Deshpande for the applicant.
Mr. S.M. Agarwal for respondent no. 2.
Mr.K.V. Saste, A.P.P. For the State.

**CORAM : RANJIT MORE AND
V.L.ACHLIYA, JJ.
DATED : 21st DECEMBER,2015**

P.C. :-

Heard the learned counsel for the applicant, respondent no.2
and the learned A.P.P. for the State.

2. The application is filed under section 482 of the Code of Criminal Procedure to quash and set aside Sessions Case No. 731 of 2015 pending before the Sessions Court, Greater Bombay.

3. At the instance of respondent no.2, Shahu Nagar Police Station Mumbai registered FIR bearing CR No. 183 of 2015 against the applicant for the offence punishable under section 376 of IPC. After investigation having been completed, the Investigating Officer filed Chargesheet in the Court which is committed to the Sessions

Court and numbered as Sessions Case No. 731 of 2015.

4. Pending the trial, the parties have settled their dispute amicably and have approached this Court for quashing of the said proceedings by consent. Respondent No.2 has filed an affidavit dated 5th November, 2015. In Paragraph 5 she has given no objection to quash and set aside the said Sessions Case. She is personally present in the Court. On being questioned, respondent no.2 has specifically stated that she has gone through her affidavit and has fully understood the contents thereof and has no objection if the subject Sessions Case is quashed. She also states that she is giving no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

5. We have perused the Chargesheet and the FIR. The FIR reveals that the applicant and respondent no.2 were voluntarily staying together in one room for the period of more than one year. The FIR further reveals that the applicant asked for sexual favour from respondent no.2 and respondent no. 2 readily accepted the same and they engaged in the sexual intercourse. There are no allegations in the FIR that the sexual intercourse by the applicant was against her will and without her consent. In the last para of the FIR, it is stated that the applicant under the pretext of marriage, established sexual relations with respondent no.2 . In

these circumstances, we are of the considered opinion that the FIR does not disclose any offence under section 376 of Indian Penal Code. At the most the FIR disclose the offence punishable under section 420 of Indian Penal Code.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh V/s. State of Punjab [2014 AIR SCW 2065]**, we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed.

7. It is reported that the applicant is in custody in pursuance of the FIR which was subject matter of the Sessions Case No. 731 of 2015. Though the Sessions Court granted him bail, he could not make arrangement for bail. Since the proceedings of the Sessions

Case are quashed and set aside, we direct that the applicant be released forthwith, if not required in any other case.

(V.L.ACHLIYA,J.)

(RANJIT MORE,J.)