

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

CRIMINAL WRIT PETITION NO. 1082 OF 2016

Miss Sarita Ramadhar Yadav

... Petitioner.

V/s.

State of Maharashtra & Anr.

... Respondents.

Ms. Pooja S. Agarwal, Advocate for the Petitioner.

Mrs. S. D. Shinde, APP for the State.

Ms. Nwrat Sayyed, Advocate i/by S. T. Mishra for Respondent No.2.

**CORAM : NARESH H. PATIL AND
A. M. BADAR, JJ.**

DATE : 26th APRIL, 2016.

P.C. :

1 By this petition, Petitioner/Informant in Crime No. I-403/2015 for offences punishable under sections 376, 312, 313, 323, 504, 506 and 417, is praying for quashing and setting aside the said FIR lodged by her against Respondent No.2 - Amaan Masood Rizvi.

2 Heard learned counsel appearing for Petitioner / informant. He argued that the FIR in question came to be lodged in heat of moment on account of arguments and

misunderstanding. According to learned counsel for the petitioner, the marriage of the petitioner is now settled and therefore, she does not want to continue with the subject proceedings initiated at her instance. Learned counsel for Petitioner argued that Respondent No.2/accused has also consented for quashing the FIR and he has sworn an affidavit, stating that he will not raise any issue after quashing the FIR. Hence, according to learned counsel for the petitioner, as petitioner wants to settle in life the FIR lodged by her be quashed. Learned counsel appearing for Respondent No.2/accused has also argued that the FIR needs to be quashed as parties have settled the matter outside the court.

3 We have heard Mrs. Shinde, learned Assistant Public Prosecutor. She argued that the offence in question is heinous as well as serious and after full investigation, the chargesheet came to be filed by the police and, therefore, the subject FIR cannot be quashed at the instance of the Petitioner.

4 Perusal of prayer clauses of the petition shows that the petitioner has prayed for a limited relief of quashing and setting aside FIR bearing no. 403 of 2015 lodged by her against Respondent No.2/accused. However, perusal of the documents annexed to the petition goes to show that after completion of investigation of the said crime, the police has filed chargesheet against Respondent No.2/accused in the court

of learned JMFC, Vashi, Navi Mumbai. The copy of the entire chargesheet is annexed to the petition.

5 Perusal of the charge-sheet shows that offences alleged against Respondent No.2/accused are serious in nature. According to the prosecution case, Petitioner / informant and Respondent No.2/accused were working with the same employer and in November 2013 Respondent No.2/ accused while returning from workplace enticed the petitioner by requesting her to come to accompany him to Orbit Mall for having some refreshment. Then Respondent No. 2/accused on the pretext that he wants to get fresh had taken Petitioner / informant to his room. According to the prosecution case, in his room Respondent No.2/accused committed rape on the Petitioner. Upon protest by her, he allured her by promising to marry. Subsequently, Respondent No.2/accused committed repeated acts of rape by promising her to marry. According to the prosecution case because of repeated sexual acts by Respondent No.2/accused, the petitioner/informant became pregnant but the accused caused her abortion by making her to eat Papaya fruits in excess quantity. According to the prosecution case subsequently, Respondent No. 2/accused started avoiding the petitioner and refused to marry her. He also used to beat her upon being questioned to marry. Because of tremendous mental pressure, the petitioner consumed poison. Ultimately, she lodge report,

leading to registration of the crime in question. During the course of the investigation, the prosecution has collected medical evidence. Statements of several witnesses came to be recorded, which prima facie corroborate version of the petitioner/informant about forcible sexual intercourse with her by the accused/respondent no.2.

6 Powers of this court under Article 226 of the Constitution of India so also under section 482 of the Code of Criminal Procedure, 1973 are required to be exercised sparingly and that too with great care and caution. Inherent powers of this court to quash criminal proceedings can be invoked in rarest of rare cases for securing ends of justice and in order to prevent abuse of process of any court. Such powers cannot be exercised in those prosecutions which involve heinous and serious offence of mental depravity or an offence like murder or rape, as held by the Hon'ble Supreme Court in the matter of **Narindar Singh & Ors. vs. State of Punjab**, reported in 2014 (6) SCC 466.

7 We are of the considered opinion that the case in hand, which is progressed upto filing of the chargesheet after collecting all evidence in pursuant to the FIR lodged by the Petitioner, involves serious offence of rape and other offences. Hence, we do not feel it expedient to invoke extra-ordinary

jurisdiction of this court for quashing the FIR, as prayed by the Petitioner.

8 In the result, the petition is dismissed.

(A. M. BADAR, J.)

(NARESH H.PATIL,J.)

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