

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1132 OF 2014

Sagar Eknath Rajas

Petitioner

versus

The State of Maharashtra and others

Respondents

Mr.Satyavrat Joshi for Petitioner.

Mrs.M.M.Deshmukh, APP, for State.

Mr.S.P.Chavan for Respondent no.3.

CORAM : NARESH H. PATIL AND
PRAKASH D. NAIK, JJ.

DATE : 9th August 2016

PC :

1. Rule. Rule is made returnable forthwith. Mr.S.P.Chavan waives service for Respondent no.3 and Mrs.M.M.Deshmukh, APP, waives service for Respondent-State.

2. Leave to correct particulars of private Respondent in affidavit of Petitioner dated 9 August 2016 granted. Amendment to be carried out forthwith.

3. The Petitioner and the Respondent no.3 both pray for quashing of the FIR no.I-43 of 2014 registered with Vartaknagar Police Station, Thane. On complaint lodged by Respondent no.3, the FIR in question came to be registered against the Petitioner for offence punishable under Section 354(D) of Indian Penal Code on 22

February 2014. The grievance of Respondent no.2 was that the Petitioner downloaded her photograph and circulated the same amongst the group colleagues of the company in which they were serving. According to her, the Petitioner followed her on facebook and from her facebook profile the photograph was downloaded and saved on the cell phone of the Petitioner.

4. Learned counsel appearing for Respondent no.3 submitted that due to above stated conduct of the Petitioner, Respondent no.3 had to suffer in life. She lost her job, her future career also got affected and she was under tremendous mental agony.

5. Learned counsel for Petitioner submitted that it was a mistake on his part which was unintentional and without any motive. Learned counsel termed the act of the Petitioner, at the most, to be the result of misunderstanding. Being a person in service and of young age, the Petitioner has realized the agony caused to Respondent no.3 and for which the Petitioner, by tendering an affidavit, has expressed his apologies to the Respondent no.3. Learned counsel submits that though in petition he has raised legal issues in challenging the FIR, but considering the nature of the allegations made in the complaint and for future life and career of the Petitioner and Respondent no.3, Petitioner was advised to have an amicable settlement of the issue involved.

6. We have perused the record and considered the submissions advanced. The Petitioner and Respondent no.3 are present in the Court. They are identified by their respective counsel.

7. The Respondent no.3-complainant in the affidavit dated 9 August 2016 has stated as follows :

"2. I say that I had suffered a great mental agony towards the act committed by the Petitioner. I say that due to such act of the Petitioner, I was removed from my job which had caused a great monetary loss to me. I say that due to the act of the Petitioner me and my family had to suffer a great shame in the society.

3. I say that I have not filed any other proceedings in any other Court in respect of the same offence committed by the Petitioner. I say that during the pendency of above mentioned Writ Petition, parties have entered into settlement."

8. The Petitioner in paragraphs 4 to 7 of his affidavit dated 9 August 2016 has stated as under :

"4. I say that I tender my unconditional apology to the Respondent no.3 for the hardships caused to her. I further state that I am ready and willing to pay an amount of Rs.1,25,000/- to the Respondent no.3 by way of compensation towards the hardships suffered by her.

5. I hereby undertake to pay an amount of Rs.1,25,000/- to Respondent no.3 by a demand draft within three weeks from today;

6. I say that in light of the aforesaid, the criminal proceedings, which are initiated against me vide No.I-43 of 2014 with the Vartaknagar Police Station, Thane, may be quashed and set aside;

7. I hereby undertake not to initiate any further civil/criminal proceedings against the Respondent no.3 with respect to the subject matter of the present FIR."

9. Considering the nature of allegations made and offence registered and in view of the affidavits filed, we find it appropriate to quash and set aside impugned FIR. Learned APP submits that Police machinery was set in motion by the complainant. Cyber cell had to devote substantial time in investigating the matter and, therefore, costs need to be awarded;

10. The Petitioner has also stated in the affidavit that for the mental agony caused to Respondent no.3, he would adequately compensate by paying Rs.1,25,000/-.

11. Accordingly, we pass following order :

(a) Writ Petition No.1132 of 2014 is allowed and FIR No.I-43 of 2014 registered with Vartaknagar Police Station, Thane is quashed and set aside;

(b) The Petitioner shall pay the Respondent no.3 a sum of Rs.1,25,000/- (Rs.One lakh twenty five thousand only) by way of demand draft on or before 30 August 2016 and submit receipt of payment in the registry of this Court;

(c) The Petitioner shall further pay a sum of Rs.10,000/- (Rs.Ten thousand only) to the Police Welfare Fund, Mumbai Police Commissionerate, Mumbai on or before 30 August 2016 and submit receipt of payment in the registry of this Court;

(d) It is made clear that order of quashing of FIR No.I-43 of 2014 shall be subject to condition of production of both the receipts to the registry of this Court, as stated above;

(e) All concerned to act on a copy of this order duly authenticated by registry of this Court;

(f) Rule is made absolute in the above terms.

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

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