

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO.983 OF 2016

Ansari Irfan Abdul Aziz. .. Applicant
Vs
State of Maharashtra and Another. .. Respondents
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Shri Suyash Gadre i/b Shri Nilesh U. Maurkar for the Applicant.
Mrs. S.V. Sonawane, APP for the State.
Shri Yogesh Dalvi i/b Shri Vaibhav R. Shah for the Respondent No.2.
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CORAM : A.S. OKA & A.A.SAYED, JJ
DATED : 7TH OCTOBER 2016

PC.

1. Heard the learned counsel appearing for the Applicant.
Rule. The learned APP waives service for the Respondent. The
Advocate for the second Respondent waives service. Forthwith taken up
for final disposal.

2. The prayer in this Application is for quashing the First
Information Report registered at the instance of the second Respondent
for the offences punishable under Section 354(D), 506(II) and 509 of
the Indian Penal Code. The prayer for quashing is sought on the basis
of the settlement between the parties as stated in the affidavit of the
second Respondent which is dated 16th September 2016.

3. We have perused the statement of the second Respondent on the basis of which First Information Report (FIR) was registered. The statement itself discloses that the Applicant and the second Respondent were having a love affair for a considerably long time. The allegation appears to be that after the second Respondent decided to end the relationship, the Applicant kept on contacting the second Respondent on telephone. It is alleged that on 8th June 2016 when the second Respondent was plying her two-wheeler, the Applicant came and sat on her two-wheeler as a pillion rider. He was caught by the second Respondent's father and brother.

4. The affidavit of the second Respondent dated 16th September 2016 discloses that the Applicant and the second Respondent have settled their differences and as far as their personal relationship is concerned, they have left it to the decision of their respective parents.

5. The Applicant has deposited a sum of Rs.10,000/- by way of donation with the Police Welfare Fund.

6. On plain reading of the statement of the second Respondent, it is not possible to accept that the offence punishable under Section 354(D) of the Indian Penal Code is made out. The

statement of the second Respondent discloses that for a considerably long time, she had a love affair with the Applicant and now the affidavit of the second Respondent records that they have settled their differences.

7. Considering the aforesaid aspects, possibility of conviction is very bleak. Moreover, the offence cannot be said to be against the Society at large and especially when we find that the offence under Section 354(D) of the Indian Penal Code is not made out. Therefore, in the light of the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹, a case is made out for quashing the FIR. Accordingly, we pass the following order.

ORDER :

- (a) The Rule is made absolute in terms of prayer clause
(a), which reads thus;

“(a) This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate writ/order/direction in the nature of writ calling for records and proceedings of FIR dated 29th July 2016 being No.C.R. No.188 of 2016 registered at MR.A. Marg Police Station, Mumbai lodged by the Respondent No.2 u/s. 354(d), 506(2) and 509 I.P.C. and after examining the legality and propriety thereof this Hon'ble Court be pleased to

1 (2012) 10 SCC 303

quash and set aside FIR dated 29th July 2016 being C.R. No.188 of 2016 registered at M.R.A. Marg Police Station, Mumbai against the Petitioner on such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.”

- (b) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J)

(A.S. OKA, J)