

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.1816 OF 2017

Sunny Nilkanth MantriPetitioner
V/s.
The State of Maharashtra & Anr.Respondents

Ms. Isha Gadi i/by Mr. N.D.Shrivastava, Advocates for Petitioner.
Mr. K.V.Saste,APP for the Respondent-State.
Mr. Anand Mishra, Advocate for Respondent NO.2.

**CORAM :- R.M. SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 27TH SEPTEMBER, 2017.

PC. :-

The above Petition seeks quashing of the FIR No.95 of 2017 registered with the MHB Colony Police Station, Borivali for the offences punishable under Sections 376 and 420 of the Indian Penal Code, 1860. The First Informant is the Respondent No.2 herein. The allegation is that the Petitioner herein on the promise of marrying her had sexual relations with her. The cause for filing of the FIR is therefore, the factum of the alleged misrepresentation made by the Petitioner to the Respondent No.2 as regards marriage.

2 The Respondent No.2 has filed an affidavit bearing yesterday's date, i.e., 26.9.2017 affirmed before this Court. In the context of the reliefs sought in the above Writ Petition, paragraphs 3 to 5 of the said affidavit are material and re-produced hereunder:

“3 I further state that the FIR lodged by me was due to anguish and some misunderstanding and now all the misunderstanding between myself and the Petitioner has been cleared and as on today there is no any dispute of whatsoever nature between us. We have amicably settled the matter with the intervention of our families.

4 I further state that myself and the Petitioner have amicably and mutually settled all our disputes and differences and all the misunderstandings between us have been cleared and we have amicably decided to quash the FIR lodged by me against the Petitioner as I do not want to proceed further in the matter.

5 I further state that in view of our amicable and mutual settlement, I am filing my present affidavit before this Hon'ble Court as my no objection to quash the FIR in question as I do not want to proceed further in the matter and lead any evidence.”

3 The Respondent No.2 is also personally present in Court. She is identified by the learned counsel Mr. Mishra who is appearing for her. She is also identified by her Adhar Card bearing

No.4905 9340 5842. When put in the box and queried, she states that the affidavit tendered by Mr. Mishra is hers and she has understood the contents of the said Affidavit and that she has signed the said Affidavit of her own free will and volition. She further states that she does not want to prosecute the FIR lodged by her. She also states that an amicable settlement has been arrived at with the Petitioner.

4 The Petitioner is also personally present before the Court. He is identified by the learned counsel Ms. Isha Gadi instructed by Mr. Navin Shrivastav. He is also identified by his Driving Licence bearing No.MH02 20090091802 issued on 15.5.2009. When put in the box and queried, he accepts the fact that settlement has been arrived at between him and the Respondent No.2.

5 The aforesaid facts, therefore, disclose that the parties have arrived at an amicable settlement as a consequence of which the Respondent No.2 does not want to prosecute the FIR. Having regard to the judgment of the Apex Court in the case of **Narinder Singh v. State of Punjab** reported in (2014) 6 SCC 466, there is no impediment in quashing the proceedings though the offences

alleged are non-compoundable. Dictum of the Supreme Court in **Gian Singh v. State of Punjab** reported in (2012) 10 SCC 303 would also lead to the same conclusion. No useful purpose would therefore be served by keeping the proceedings pending. The above Petition is allowed and made absolute in terms of prayer clause (b).

6 The learned counsel Mr. Mishra undertakes to file his vakalatnama during the course of a week. Undertaking accepted.

(SANDEEP K. SHINDE, J)

(R.M. SAVANT, J)