

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.278 OF 2016

Mijajbai Allabaksha Shaikh	Petitioner
versus	
The State of Maharashtra and another	Respondents

Mr.Umesh Mankapure for petitioner.

Mr.Tejas Pawar I/by Bhushan Walimbe for respondent no.2.

Ms.P.N.Dabholkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 1st August 2018

PC :

1. The petitioner is prosecuted for offence u/ss.363, 366 r/w Section 34 of Indian Penal Code. The first information report was lodged on 2nd June 2012 with Ashta Police Station by respondent no.2. The prosecution case is that the accused no.1 and the daughter of respondent no.2 were having affair. It was alleged that accused no.1 had kidnapped the victim girl and accused no.2 (petitioner) had facilitated the accused no.1 in the said crime and therefore by invoking Section 34 of IPC, the petitioner was impleaded as accused.

2. Pursuant to the registration of FIR, investigation was completed and charge sheet was filed. The application for discharge was preferred before the Sessions Court, which was rejected. It is

submitted that during pendency of the petition, the parties have amicably settled the dispute. Hence respondent no.2 had consented for quashing the proceedings against the applicant. Although prosecution case involved charge u/s 363 and 366 of IPC, the role that was attributed to the applicant is of helping the accused no.1 in commission of said crime. It is alleged by the prosecution that accused no.1 was working as a meson in the house of present petitioner wherein the victim got acquainted with him. Beyond that, there is no active role attributed to the petitioner in commission of the alleged crime.

3. The complainant and accused are present in the Court. The complainant and accused are identified by respective advocates. The affidavit sworn by the complainant is tendered which is taken on record and marked "X" for identification. In the affidavit it is stated that the petitioner and the complainant's family are residing adjacent to each other and they are near relatives. They had decided to reside peacefully and therefore it is decided not to prosecute the petitioner. Apparently it is clear that being relatives and neighbours, the parties intend to maintain harmonious relationship. The complainant has confirmed the contents of this affidavit and has stated that he has no objection for quashing the proceedings. In the circumstances, there is no impediment in allowing this petition. Hence, I pass following order :

ORDER

(i) The impugned judgment and order dated 16th November 2015 passed by the Additional Sessions Judge, Islampur below Exhibit-7 in Sessions Case No.19 of 2014, as well as proceedings in Sessions Case

No.19 of 2014 pending before the Court of Sessions, Islampur, are quashed and set aside;

(ii) Criminal Writ Petition No.278 of 2016 is allowed in above terms and disposed off.

(PRAKASH D. NAIK, J.)

MST