

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 532 OF 2018

Maaz Abdul Munaf Gazdhar ..Applicant.

Versus

State of Maharashtra & Others. ..Respondents.

Mr. S. R. Gaud for the Applicant.

Mr. K. V. Saste, APP for the Respondent-State.

Ms. Gayatri Shahane for Respondent No. 2 and 3.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : September 12, 2018.

P. C. :

1. Heard the learned counsel appearing for the respective parties. By this application filed under section 482 of the Code of Criminal Procedure, 1908, the Applicant is seeking to quash and set aside the proceedings of Special Case No.281 of 2017 pending on the file of learned Additional Sessions Judge [under the POSCO Act] for Greater Mumbai. The said case is an offshoot of the FIR bearing CR. No. 426 of 2016 registered with Nagpada Police Station at the instance of Respondent No.2. The allegations levelled against the Applicant therein are for the offence punishable under section 354D of the Indian Penal Code, 1860 and section 12 of the Protection of Children From Sexual Offences Act, 2012.

2. The said FIR is made with the allegations that

Respondent No.3 – the daughter of Respondent No.2, was followed by the Applicant and thereafter he put up a proposal of marriage to Respondent No.3. After completion of investigation, charge-sheet is filed by the police and proceedings are numbered as Special Case No. 281 of 2017 and it is now pending before the Sessions Judge [POSCO Act] for Greater Mumbai.

3. The learned Counsel appearing for the respective parties submitted that during the pendency of above criminal proceedings, with the help and intervention of family members, friends and well-wishers, the parties have amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present application is filed for quashing the above criminal proceedings, by consent of Respondent Nos.2 and 3. They submitted that the Applicant and Respondent No.3 have got married on 23rd January 2017 and since then they are staying together happily as husband and wife.

4. Respondent No.2 and Respondent No.3 have filed separate affidavits dated 9th August 2018. In paragraph 3, they have stated that the Applicant and Respondent No. 3 have got married and staying together as husband and wife and therefore they do not want to proceed further against the Applicant. They have given no objection for quashing the proceedings of subject Sessions Case against the Applicant.

5. Respondent Nos.2 and 3 are personally present before the Court. On specific query made by us, Respondent Nos.2 and 3 submitted that they have made the said affidavits on their own free will, without there being any pressure or undue influence. They have further confirmed that they have no objection for quashing the subject criminal proceedings initiated by Respondent No.2 against the Applicant. Respondent No.3 re-iterated that she has married with the Applicant and staying with him and does not want to proceed further with the subject criminal case. Respondent No.2, father of Respondent No.3, also stated that in view of the marriage of the Applicant with his daughter, he now does not want to proceed further with the prosecution of the Applicant in the subject criminal case.

6. We have gone through the FIR. Though it discloses the allegation of section 354D of the IPC, we find that provisions of section 12 of the POSCO Act are not attracted. Allegations does not disclose any sexual intention on the part of the Applicant. When the subject FIR was filed, Respondent No.3 was minor and age of the Applicant was also 24 years.

7. In the light of above, we are of the opinion that quashing the proceedings of subject criminal case would be in the interests of Respondent No.3. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan

Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the subject criminal proceedings pending except ultimately burdening the Criminal Courts which are already overburdened.

8. In the light of principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the subject criminal proceedings. Accordingly, application is allowed in terms of prayer clause (b). In the facts and circumstances of the case, we find it would be appropriate to saddle the Applicant with the cost of Rs.25,000/-, which shall be paid to “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Applicant shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, application shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as *non-est*.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]