

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.1161 OF 2018

Nikhil Ramakant Tanawade	..Applicant
Versus	
The State of Maharashtra and another	..Respondents

Mr. Manoj Mohite I/by Mr. Raviraj Paramane, Advocate for the Applicant.

Mr. J. P. Yagnik, APP for Respondent No.1.

Mr. Niranjan Mundargi I/by Mr. Vaibhav Gaikwad, Advocate for Respondent No.2.

**CORAM : B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.
DATE : 19th DECEMBER, 2018**

P.C.

- 1]** Leave to amend the prayer clause (a).
- 2]** Rule. Rule made returnable forthwith. Heard by consent of parties.
- 3]** The Applicant has approached this Court for quashing and setting aside the FIR bearing CR No.I-172 of 2015 dated 14th April 2015 for the offences punishable under Sections 354, 376, 504 and 506 of the Indian Penal Code (for short "IPC").
- 4]** The FIR lodged by the Respondent No.2/First Informant

states that the Applicant as well as the Respondent No.2 were studying together from the primary school. It is stated that during the period, they were residing in the same area. Thereafter Applicant went to reside at Sion, Dharavi. The FIR further states that since Applicant was more intelligent than Respondent No.2, he was admitted in VNIT, Engineering College at Nagpur. It is further stated that in 2010, Applicant had come to her house and reminded Respondent No.2 regarding their earlier friendship. It is further stated that Applicant used to come to the house of Respondent No.2 and was introduced to the family members of the Respondent No.2. The FIR further states that on 21st December 2010, Applicant again met her. It is further stated that on 27th December 2010, Applicant had called Respondent No.2 at Korram Mall, Thane. Thereafter on 7th January 2011, all of sudden Applicant came to the house of Respondent No.2 and told her, he would be marrying with her and therefore, against the desire of Respondent No.2 had forcible intercourse with her. After that Respondent No.2 started crying, but Applicant assured her that he is going to marry her. Thereafter Respondent No.2 was having pains. She went to the doctor and informed the doctor of the incident, so also that she is likely to

marry with Applicant. Thereafter doctor gave her certain medicines. The FIR further states that in 2013, Applicant was in Nagpur and intermittently used to come to Thane and forcefully established sexual relations with her. The FIR further states that in 2014, both of them went by car to Pune and halted at Lonavala. It is stated in the FIR that Applicant was addicted to drugs and under the influence of drugs, he again had forcible intercourse with her. The FIR further states that Respondent No.2 attempted to persuade Applicant to give up the drug addiction. It further goes on to state that in the month of December 2014, when Respondent No.2 asked the Applicant about marriage, he started quarreling with her and stopped talking to her. The FIR was lodged on 14th April 2015.

5] The Apex Court in the case of Narinder Singh Vs. State of Punjab¹ has considered in what circumstances the Court can exercise its jurisdiction under Section 482 of the Cr.P.C. for giving an end to the criminal litigation. No doubt that Hon'ble Apex Court has held that Court normally should not quash FIRs for the offences, which are detrimental to the society at large. Normally FIR for offence punishable under Section 376 would not be quashed by this

¹ (2014) 6 SCC 466.

Court.

6] The Apex Court has further held that various factors are required to be taken into consideration by the Court while entertaining an application for quashing of FIR, the stage of the trial, possibility of the conviction being recorded in the matter and some of the few factors. In the present case, Respondent No.2 is personally present in the Court and has filed an affidavit. It will be relevant to refer to paragraphs 2 and 3 of the said affidavit :-

“2. I say that, I have no objection for quashing of FIR as well as charge sheet arising there from. After registration of said FIR, amicable settlement arrived between the Applicant and me. I say that the said FIR was lodged only out of misunderstanding between the Applicant and me. I say that I am withdrawing all the allegations made in the said FIR against the Applicant.

3. I say that my marriage took place on 28/11/2017. As the subject FIR was lodged out of sheer misunderstandings between me and the Applicant, I do not wish to now continue with the said proceedings. I say that the present Affidavit is filed without any force or any coercion and on my own will and wish.”

7] Respondent No.2 is personally present in Court. She is identified by Mr. Mundargi, learned counsel appearing on behalf of Respondent No.2. We have personally interviewed her and she has

reiterated that in order to live peacefully, she has decided to give an end to criminal litigation. She has further stated that the FIR was lodged on account of misunderstanding and as a result of quarrel between her and Applicant. It could thus be seen that continuation of the criminal proceedings would come in the way of matrimonial life of Respondent No.2. After she has settled in her life, she will have to undergo agony of trial. In any case, since the case basically rests on the evidence of prosecutrix and she herself is not supporting the prosecution case, there is no possibility of the trial ending in conviction.

8] Taking into consideration the peculiar facts and circumstances of the case, we find that this is a fit case, to permit Respondent No.2 to live happy matrimonial life and give an end to the criminal litigation. Rule is therefore made absolute in terms of prayer clause (a).

[RIYAZ I. CHAGLA, J.]

[B. R. GAVAI, J.]