

THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.33 OF 2019

Mr. Ayub Shabbir Sande .. Applicant

Vs

The State of Maharashtra & Ors. .. Respondents

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Mr. Ganesh Gole i/b Mr. Ateet Shirodkar for the applicant.

Mr. Deepak Thakare, Public Prosecutor with Mr. A.D. Kamkhedkar, A.P.P. for the State.

Mr. Arif Ali M. Ali for Respondent No.2.

**CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.**

DATED : 17th JULY 2019

P.C:-

1. Heard learned counsel appearing for the applicant, learned counsel appearing for Respondent No.2 and learned APP for the State.

2. This petition is filed for quashing and setting aside the proceedings in Sessions Case No.564 of 2017 pending in the Court of Sessions at Greater Bombay at Mumbai against the Applicant. The said case arises out of the registration of FIR

AJN

being C.R. No.487 of 2016 with Pantnagar Police Station at Mumbai at the instance of Respondent No.2 for offences punishable under Sections 376, 420, 452 and 506(2) of the IPC.

3. Learned counsel appearing for the respective parties have submitted that during the pendency of the trial, the parties have amicably settled their disputes and differences. Pursuant to the understanding arrived at between them, the present petition is filed for quashing the proceedings of the subject case. Respondent No.2 – Original Complainant has filed an affidavit dated 17th July 2019. In paragraphs 3, 4, 5 and 6 of the said affidavit, following averments are made:

“3. That I say that, the Applicant and Respondent No.2 were having a love affair and maintained consensual physical relationship on several occasions. The present FIR came to be filed on emotional outbursts of the Respondent No.2 after applicant got married to another girl of his religion.

4. That I further say that due to intervention of mutual friends and well-wishers the disputes between the Applicant and the answering Respondent No.2 has been settled amicably and they do not harbour any ill-feeling towards each other.

5. That I say that the instant C.R. is out-come of the emotional outbursts of the deponent and the parties have amicably resolved all the disputes between them.

6. That I say that in view of the aforesaid settlement, no prejudice would be caused to anyone if the instant F.I.R. as well as charge-sheet is quashed.”

4. Respondent No.2 in paragraph 8 of her affidavit has given her no objection to quash the subject FIR. Respondent No.2 is personally present in the Court. On a specific query made by us, she submitted that she has made the said affidavit on her own will without there being any pressure or undue influence. She has further stated that she has no objection in quashing the proceedings in Sessions Case initiated at her instance for the offences punishable under Sections 376, 420, 452 and 506(2) of the IPC.

5. So far as the present case is concerned, we have gone through the charge-sheet and in particular the FIR. The reading of the charge-sheet makes it abundantly clear that the petitioner and Respondent No.2 are adults and the physical relationships between them were consensual. The FIR came to be registered as the petitioner refused to marry the respondent-complainant. Be that as it may, in the affidavit filed by the respondent-complainant, she has also asserted that both the petitioner and respondent No.2 were having love affair and maintained consensual physical relationship.

6. In the light of the aforesaid observations and in view of

the fact that the two rival parties have amicably settled the dispute between them and buried the hatchet, we are of the opinion that the FIR is liable to be quashed in exercise of our inherent powers to secure the ends of justice.

7. In the backdrop of above facts and circumstances and especially in view of law laid down by the Apex Court in the case of ***Narinder Singh*** (supra), we find that no purpose would be served by keeping the criminal proceedings pending except burdening the criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the criminal proceedings are required to be quashed. However, at the same time, costs need to be saddled on the parties for putting into motion the police and judicial mechanism for settling their personal disputes.

8. Accordingly, the writ petition is allowed and the FIR bearing C.R. No.487 of 2016 registered with Pantnagar Police Station as well as the Charge-sheet in Sessions Case No.564 of 2017 pending before the Court of Sessions at Greater Bombay at Mumbai against the petitioner is quashed and set aside subject to the following :-

- (i) The petitioner shall pay costs of Rs.50,000/- to
“Central Police Welfare Fund” (having Account
No.914010029005759 with AXIS Bank, IFSC

Code UTIB0000060). The petitioner shall pay the said costs and produce the receipt thereof on the file of this Court within a period of four weeks from today, failing which, the application shall stand dismissed automatically without further reference to the Court and the order quashing the criminal proceedings shall be treated as non-est.

9. Subject to the above, criminal application stands disposed of.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)