

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.649 OF 2019**

Mr. Pururava Kuldeep Singh YadavPetitioner
versus
The State of Maharashtra & Anr.Respondents

Mr. R.V. Gupta, Advocate for the Petitioner.
Ms. Sangita Shinde, APP for the Respondent-State.
Mr. A.H. Ponda a/w. Ms. Anjali P. Mishra, Advocate for respondent No.2.

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

DATE : 16th JULY, 2019.

P. C. :

1. Heard learned counsel for the petitioner, the learned counsel appearing for the respondent No.2 and the learned APP for the State.
2. Petition is filed for quashing FIR bearing C.R.No.429 of 2017 registered with Amboli Police Station, at the instance of respondent No.2 for the offence punishable under Sections 376(1), 420, 417, 500 read with Section 34 of the Indian Penal Code, 1860. The said FIR is registered against the petitioner and his father.
3. The learned counsel appearing for the respective parties submitted that during the investigation into subject FIR, the parties amicably settled their differences by way of mutual settlement and pursuant to the understanding arrived at between them, present petition is

filed for quashing the above FIR, by consent of parties.

4. Respondent No.2 – original complainant has filed an affidavit dated 3rd April, 2019. In paragraph 2, she has stated that she was in love relationship with petitioner. She has further stated that the petitioner had promised to marry her and hence, they had consensual sexual relationship only on basis of marriage commitment and she got pregnant. She further stated that, due to some misunderstanding, the petitioner had denied to marry her. In Paragraph 6, she has given no objection for quashing and setting-aside the subject FIR.

5. Respondent No.2 is personally present before the Court. On specific query made by us, she submitted that she had made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing FIR in question initiated by her against the petitioner and his father.

6. It is true that the offence under section 376 of IPC is of serious nature and is an offence against the society. Consequently, such an offence cannot be quashed by consent. Nonetheless, it would be advantageous to refer to Paragraph 28 of **Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]**, wherein the Apex Court has held as

under:

“28. Having said so, we would hasten to add that though it is a serious offence as the accused person(s) attempted to take the life of another person/victim, at the same time the court cannot be oblivious to hard realities that many times whenever there is a quarrel between the parties leading to physical commotion and sustaining of injury by either or both the parties, there is a tendency to give it a slant of an offence under Section 307 IPC as well. Therefore, only because FIR/ Charge-sheet incorporates the provision of Section 307 IPC would not, by itself, be a ground to reject the petition under section 482 of the Code and refuse to accept the settlement between the parties. We are, therefore, of the opinion that while taking a call as to whether compromise in such cases should be effected or not, the High Court should go by the nature of injury sustained, the portion of the bodies where the injuries were inflicted (namely whether injuries are caused at the vital/delicate parts of the body) and the nature of weapons used etc. On that basis, if it is found that there is a strong possibility of proving the charge under Section 307 IPC, once the evidence to that effect is led and injuries proved, the Court should not accept settlement between the parties. On the other hand, on the basis of prima facie assessment of the aforesaid circumstances, if the High Court forms an opinion that provisions of Section 307 IPC were unnecessary included in the charge sheet, the Court can accept the plea of compounding of the offence based on settlement between the parties.”.

The decision of the Apex Court, thus, makes it clear that the Court cannot decline to quash the FIR merely because the FIR incorporates a particular provision which is a serious offence or an offence against the society. The Court has to endeavour to find out whether the FIR indeed discloses ingredients of such offence and that the

Court can accept the settlement and quash the FIR / Charge-sheet if the Court is of the opinion that such an offence is unnecessarily incorporated in the charge-sheet.

7. So far as the instant case is concerned, we have gone through the FIR. Both petitioner and respondent No.2 were major at the time of incident. The FIR also reveals that they were in love relationship and respondent No.2 also got pregnant in this relationship. FIR is filed as the petitioner did not fulfill his promise to marry respondent No.2. Be that as it may, pending investigation, the petitioner and respondent No.2 got married in accordance with Hindu Rites on 20th January 2018. This marriage is registered on 3rd February 2018 by Registrar of Marriage, Mumbai. A copy of the extract of marriage certificate is annexed at "Exhibit – E", page 32. Since marriage, the petitioner and respondents are residing together happily in Mumbai. The petitioner is also present before the Court. On specific query made by us, he submitted that he has married with the petitioner and they are living together. He also assures that he will continue marital relationship with petitioner and also make honest and sincere efforts so that the respondent No.2 is accepted by his family members who are staying in Bhopal. The statement made by the petitioner is accepted as undertaking to this Court.

7. 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 FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

8. In the light of the 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 FIR. In that view of the matter, writ petition is made absolute in terms of prayer clause (a) and is disposed off as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]