

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1139 OF 2016**

Rohit Vijaysingh Balode

.. Applicant

Vs.

The State of Maharashtra
& Anr.

.. Respondents

Mr.N.S. Mundargi I/b K.D. Ambulkar for applicant.

Mr.Avinash Kamkhedkar, APP for respondent No.1-State.

Ms. Ketan Mehta for respondent No.2.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 28TH AUGUST 2019

P.C.

1 Heard Shri N.S.Mundargi, the learned counsel for the applicant, Ms. Mehta for respondent No.1 and the learned APP for the respondent No.1-State.

2 An application has been filed initially for quashing of first information report No.280/2016, registered with Kondhawa Police Station, Dist.Pune, at the instance of the applicant herein for the offences punishable under sections 376 and 420 of Indian Penal Code, 1860 on merits.

3 This Court, vide order dated 6th February 2017, after hearing the learned counsel for the applicant and the learned APP, granted rule and

also observed that *prima facie* it appears that offence under section 376 of the IPC is not made out as it appears that relationship was maintained with the consent of the second respondent.

4 During pendency of the instant application, the parties have settled their dispute amicably and pursuant to the understanding arrived at between them, they have approached this Court for quashing the subject FIR by mutual consent. The respondent No.2-original complainant has accordingly filed an affidavit in reply, affirmed on 26th August 2019. In paragraphs 2 to 4 of the said affidavit, the following averments are made :-

“2 I say that the subject FIR was lodged by me due to sheer misunderstanding between me and the Applicant (Rohit Vijaysingh Balode). However, now I have realized the mistake and accordingly we have resolved the issue amongst our self hence I don't wish to proceed with the subject F.I.R.

3 I say and submit that in view of the amicable settlement between me and the Applicant and the subject issue being personal between us, it would be a waste of time of Hon'ble Courts and no useful purpose would be served if the said proceeding/matter continues.

4 I say that I have no objection if F.I.R. bearing C.R.No. 280 of 2016 dated 11/07/2016 registered with Kondhawa Police Station for offences punishable U/s. 376, 420 of IPC against the Applicant is quashed.”

5 The respondent No.2 is present before us and on our specific query, she submitted that she has made the affidavit on her free will and without there being any pressure or coercion. The respondent No.2 has also

confirmed that she has no objection for quashing the proceedings of the subject FIR. In this context, paragraph 5 of the affidavit in reply is relevant which reads thus :

“5 I say that the present affidavit in reply is filed by me with my own wish and will without there being any kind of force, coercion and/or misrepresentation and I shall be bound by the order passed on the basis of the present Affidavit in Reply and shall not challenge the same before the Superior Court.”

6 So far as the instant case is concerned, we have gone through the FIR. Reading of the FIR makes it abundantly clear that the applicant and the respondent no.2 are in relationship and their relationship was consensual. The subject FIR came to be filed by the respondent No.2 because the applicant refused to marry her. In these circumstances, in our opinion, the allegations under section 376 of IPC made by the respondent No.2 against the applicant cannot be sustained and no case is made out so far as the offence under this section is concerned.

7 It can, thus, be seen that the matter has been amicably settled between the parties. From perusal of complaint, it transpires that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of **Narinder Singh Vs. State of Punjab**¹, we find that no purpose would be

1 2014 AIR SCW 2065

served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened.

8 Accordingly, the application is allowed in terms of prayer clause (b). However, at the same time, costs need to be saddled on the applicant for using the police and judicial machinery for settling their personal disputes. In view of this, the applicant to pay a sum of Rs.25,000/- as costs. This amount of Rs.25,000/- to be paid to “**Tata Memorial Hospital**”, an institution that takes care of the patients suffering from cancer at advance stage and/or terminally ill due to cancer. 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 two 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/FIR shall be treated as *non-est*.

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

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]