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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.960 OF 2021

Santosh Pandurang Gavali

APPLICANT

VERSUS

The State of Maharashtra and Another

RESPONDENTS

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Mr. Dhananjay A. Mane, Advocate for the applicant

Mr. S. J. Salgare, APP for respondent - State

Mr. D. M. Pingale, Advocate for respondent No. 2

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[CORAM : SUNIL P. DESHMUKH AND
NITIN B. SURYAWANSHI, JJ.]

DATE : 7th SEPTEMBER, 2021

ORDER :

1. This criminal application seeks quashing of first information report lodged by respondent No. 2, on the basis of which Crime No. 48 of 2021 came to be registered with Paranda police station, District – Osmanabad for the offence punishable under sections 376, 323, 504 and 506 of the Indian Penal Code.
2. The victim – respondent No. 2 lodged the FIR alleging that since the year 2009 the applicant is having physical relationship with her by giving promise of marriage and against her wish ravished her from time to time.

3. On completion of investigation charge sheet has been filed.
4. Respondent No. 2 has filed affidavit contending that physical relations between the applicant and herself were by consent, as they were having love affair. According to her, they have now amicably settled the dispute and she does not wish that prosecution lodged against the applicant should continue.
5. Heard learned advocates for the parties.
6. Admittedly, respondent No. 2 is major. It is clear from the contents of the first information report and papers of investigation that there was love affair between the applicant and respondent No. 2 and consensual relationship is explicit from the record and the same is also fortified by respondent No. 2 by filing affidavit in this court.
7. In this view of the matter, continuation of prosecution against the applicant would be a futile exercise as the victim herself is stating that there was consensual physical relations between her and the applicant. In this situation chances of conviction of the applicant are bleak. Since respondent No. 2 – the informant has settled the dispute with the applicant, we are inclined to allow present criminal application.

8. Criminal application, therefore, is allowed in terms of prayer clauses "B" and "B1" and is disposed of, on the condition that the applicant and respondent No. 2 pay costs of Rs.15,000/- each. Amount of costs is to be deposited with the High Court Bar Association, Aurangabad within a period of four weeks from today.

[NITIN B. SURYAWANSHI]
JUDGE

[SUNIL P. DESHMUKH]
JUDGE