

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2786 OF 2021

Harishkumar Mohinder Pal

..Petitioner

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Shivam P. Shrivastav for Petitioner.

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

Mr. Ameya Kulkarni i/b. Arnold Thomas for Respondent No.2.

CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.

DATE : 9 DECEMBER 2021

P.C. :

. Heard the learned counsel for the parties. Taken up for disposal.

2. By this Petition, the Petitioner is seeking to quash the F.I.R. No. 222 of 2021 registered at Vashi police station, Navi Mumbai. The Respondent No.2 had filed an F.I.R. under sections 376(2)(n) and 323 of the Indian Penal Code. The F.I.R. was lodged on 10 July 2021 stating that the Petitioner had physical relationship with the Respondent No.2 on the promise that he would marry her and also forced her to take the drug for abortion so administered.

3. The learned counsel for the Respondent No.2 states that the Respondent No.2 has filed an affidavit, in which, it is stated that the differences have been resolved and both Petitioner and the Respondent No.2 have got married and they have settled the issue. The learned counsel for the Respondent No.2 states, on instructions from the Respondent No.2 that the F.I.R. was filed in a fit of anger on a misunderstanding and the Petitioner genuinely wanted to marry Respondent No.2 which is manifested by the fact that the marriage did take place immediately after lodging of F.I.R. within four days thereof.

4. Considering these submissions of the learned counsel for the Respondent No.2, it is quite clear that the offence itself is not made out as both the parties are adults and the Respondent No.2 has clarified that the relationship was with her consent and not on any false pretext of marriage. Furthermore, the Respondent No.2 has filed an affidavit of consent that the F.I.R. was filed in a fit of anger and within four days, the Petitioner and the Respondent No.2 have got married. The learned APP states that, a letter has been received from the Respondent No.2 by the police stating the same position that upon marriage with the Petitioner, the Respondent No.2 does not wish to pursue the matter further.

5. Considering this position, we are of the opinion that, not quashing the F.I.R. will in fact against the interest of justice. Not only

the offence is not made out but the Petitioner and the Respondent No.2 are now married.

6. In the light of this position, the F.I.R. registered at Vashi Police station, Navi Mumbai in C.R.No.222 of 2021 and any resultant proceedings therefrom are quashed and set aside.

7. Order accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)