

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO. 155 OF 2022

Surinder Singh Himmatsingh Kadyan ... Petitioner

Versus

1. State of Maharashtra

2. Rupali Vishnukant Sharma ... Respondents

Mr. Shirish Gupte, Senior Advocate a/w Pravin Singh i/by Ashok Singh for the Petitioner.

Mr. Shanu @ Sanjay T. Raikar for the Respondent No.2.

Mrs. P. P. Shinde, APP for the Respondent No.1-State.

PSI Ankur Shelar, NRI Sagari Police Station, Navi Mumbai.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 2nd DECEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the petition is taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1-State and Mr.Raikar, learned counsel waives notice on behalf of the

respondent no.2.

3. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR, registered vide C.R. No. 98 of 2021 with the NRI Coastal Police Station, Navi Mumbai, for the alleged offences punishable under Sections 354A(1)(iv), 351(D)(1), 504 and 509 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. According to the respondent no.2 (original complainant), she and the petitioner, a retired Army Officer, are residents of the same society. She has alleged that whenever she stepped out for a walk i.e. on 3 to 4 occasions, the petitioner obstructed her and used objectionable language, resulting in her modesty being outraged. She has alleged although her husband gave an understanding to the petitioner, the petitioner used vulgar language against him.

5. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Chief Metropolitan Magistrate, Vashi, being Case No. 817 of 2021.

6. During the pendency of the aforesaid proceeding, the parties i.e. the petitioner and respondent no.2, both residing in the same society, amicably settled their dispute.

7. The respondent no.2 has filed her consent affidavit dated 3rd February, 2022, duly notarized before the Notary. In the said affidavit, the respondent no.2 has stated that with the help of common friends and well-wishers and to maintain good and cordial relations, since the petitioner resides in the same vicinity, she has decided to give her no objection for quashing of the said FIR/proceeding. The respondent no.2 is present in person. On being questioned, she reiterates what is stated by her in the consent affidavit. She is identified by her counsel. Learned counsel for the respondent no.2 has tendered a photocopy of the Aadhar Card of the respondent no.2, duly attested by her. The same is taken on record and the original Aadhar Card is verified

by the learned APP.

8. The petitioner is present in person. He assures that he will never repeat his act again.

9. Having regard to the nature of dispute, the fact that the petitioner and the respondent no.2 are living in the same complex, the assurance of the petitioner, the consent affidavit of the respondent no.2, there is no impediment in allowing the petition.

10. The petition is accordingly allowed and the FIR registered vide C.R. No. 98 of 2021 with the NRI Costal Police Station, Navi Mumbai and consequently, the proceeding pending before the learned Chief Metropolitan Magistrate, Vashi, being Case No. 817 of 2021, are quashed and set aside.

11. The petitioner to deposit a sum of Rs.20,000/- with the **Central Police Welfare Fund bearing Account No. 914010029005759, IFSC No. UTIB0000060**, as costs. The said costs to be deposited within three weeks from today.

12. Rule is made absolute in the aforesaid terms and the petition is disposed of accordingly.

13. Stand over to **4th January, 2023**, for recording compliance of the said order of deposit.

14. Learned counsel for the respondent no.2 to file his *Vakalatnama*, if not filed, on behalf of the respondent no.2, within two weeks of the uploading of this order.

15. All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2022.12.07
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