

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO.114 OF 2022

Gaurav Ganesh Sawant Petitioner

Vs.

The State of Maharashtra & Anr. Respondents

Mr.Dheeraj Panchange for the Petitioner

Mrs.M.H.Mhatre, A.P.P. for the State

Mr.Swapnil R. Chopade Patil for the respondent no.2

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATED : FEBRUARY 18, 2022

P.C.

1. Heard.

2. The Petitioner is seeking quashment of F.I.R. No.576 of 2021 dated 28.10.2021 registered with Dongri Police Station, Mumbai for the offence punishable under section 376 of the Indian Penal Code.

3. The facts giving rise to the present petition can be summarized as under:

4. The petitioner is serving as a Police Constable in Bombay Police and is attached to Crime Branch. It is alleged by Respondent no.2 that in 2018, she came in contact with

the Petitioner through Face Book. Thereafter, they started meeting each other. It is alleged that in the year 2018, Petitioner called Respondent no.2 in his house on the pretext of birthday of his mother but nobody was in the house. It is alleged that petitioner offered her soft drink wherein he mixed some sedative and committed forcible sexual intercourse on her. Thereafter, the Petitioner used to call Respondent no.2. He proposed Respondent no.2 and thereafter, performed engagement ceremony with Respondent no.2 on 10.12.2020. After about a year, on 10.12.2021 date of marriage was fixed but he refused to marry Respondent no.2. After engagement ceremony, Petitioner used to call Respondent no.2 and used to have physical relations with her. When Petitioner refused to marry Respondent no.2, she lodged F.I.R. against the Petitioner.

5. During the pendency of Criminal Case, petitioner and respondents settled their dispute amicably with the intervention of family members, friends and well wishers. Accordingly, consent affidavit was prepared. Copy of the same is produced on record at page No.26. In the said affidavit, it is averred by Respondent no.2 that in view of amicable settlement between her and the Petitioner she shall withdraw all the cases filed against the Petitioner, if any. It is also affirmed that the present affidavit is executed by her out of her free wish and will and no coercion, force or duress was used while executing the present consent affidavit.

6. Considering the above facts, we are of the opinion that continuation of proceeding arising out of Crime No.576 of 2021 would be nothing but an act of futility. We are of the opinion that the Petitioner has made out a case for allowing the petition.

7. In these circumstances and especially in view of the law laid down by the Apex Court in the case of ***B.S.Joshi Versus State of Haryana AIR 2003 SC 1386*** we are of the view that no purpose would be served by keeping the criminal proceedings except burdening the Criminal Courts which are pending already overburdened. In that view of the matter and in the interests of Justice, the subject FIR is required to be quashed.

8. In view of the above facts, petition is allowed in terms of prayer clause (a) subject to payment of costs of Rs.2,00,000/- by the applicant to Mumbai Police Welfare Fund, and thereafter, producing the receipt thereof on the file of this application within a period of four weeks from today, failing which, the Criminal Application shall stand dismissed automatically without further reference to the Court and the order quashing the FIR shall be treated as non-est.

(SURENDRA P. TAVADE, J.) (PRASANNA B. VARALE, J.)