

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO.173 OF 2018

Rizwan Abrar Khan

Applicant

versus

The State of Maharashtra and others

Respondents

Mr.Anurag Ghag i/by Mr.Ujjal Gandhi, Advocate for applicant.

Mr.A.R.Patil, APP, for State.

PSI P.P.Jamadar, Santacruz Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th June 2022

PC :

1. This is an application challenging order dated 6th March 2018 passed by the Court of Sessions rejecting application for discharge preferred by applicant in Sessions Case No.753 of 2015.

2. The FIR was registered on 24th January 2014. The complainant has alleged that she got acquainted with the accused in 2015. They became good friends. The accused has expressed his feelings for her. The proposal was turned down by the complainant. The accused kept on following her and there was friendship between them. There was physical relationship between both of them. They were into relationship. Subsequently accused did not perform marriage although he had promised her that he would perform marriage with complainant. The grievance of the complainant is that under the false promise of marriage the accused had sexual relationship with her. He had no intentions to perform marriage. On completing investigation charge sheet was filed.

3. Learned counsel for applicant submit that FIR was lodged belatedly. The allegations in the FIR are false. Undisputedly there was sexual relationship between the applicant and the complainant. The contents of FIR itself makes it clear that accused and the complainant were in relationship. On account of some dispute the marriage could not be performed. Assuming the allegations to be true, the offence u/s.376 of IPC is not made out. The applicant cannot be prosecuted for the said offence.

4. Learned APP submitted that grounds urged by the applicant are matter of evidence and cannot be considered at this stage.

5. I have perused the FIR, documents which forms part of charge sheet and impugned order rejecting application for discharge. From the tenor of the FIR it is apparent that complainant and the accused were acquainted with each other. The complaintant specifically mentions that the accused had forceful physical relationship with her under promise of marriage and subsequently did not perform marriage. The submissions advanced by advocate for the applicant that relationship was consensual and offence as alleged can not made out, cannot be considered at this stage. Hence the application deserves to be dismissed.

ORDER

- (i) Criminal Revision Application No.173 of 2018 is dismissed;
- (ii) It is clarified that observations made in this application are for deciding this application and Trial Court shall not be influenced by same during trial.

(PRAKASH D. NAIK, J.)