

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

CRIMINAL APPLICATION NO.444 OF 2020

Sharad Dattatraya Sonawane ... Applicant.
Sriprastha, Nalasopara (W),
Dist.Palghar-401203

V/s

1. The State of Maharashtra
(Arnala Sagari Police Station,
Palghar.

2.ABC

Aged about 37 years, residing
at C-302, Akshay Society, JB
Nagar, Andheri (E),
Mumbai-400059

...Respondents.

....

Mr. Sujit Shelar, for the Applicant.

Mr KV Saste, APP for the State.

Ms Karuna Yadav i/b Mr. Abhay Dakhwe for Respondent
No.2.

....

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

DATE : 30 NOVEMBER 2022.

Order (Per R.N.Laddha,J.)

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable immediately, at the request of and with the consent of the learned Counsel for the parties. Learned Counsel for the Respondents waived service.

3. This is a petition for quashing FIR No.301 of 2018 registered at the Arnala Sagari Police Station, Palghar, alleging the commission of offences punishable under Sections 376, 406 and 506 of the Indian Penal Code.

4. The First Information Report came to be registered against the Applicant with the accusations that the Applicant and second Respondent were in love relationship since June 2017. It is alleged that on 5.2.2017, the Applicant had forcible sexual intercourse with Respondent No.2 on promise of marriage, but thereafter, he refused to perform marriage with Respondent No.2. It is alleged that from that day onwards till 28.10.2018, the Applicant on the false promise of marriage had physical relationship with Respondent No.2.

5. Further, it is alleged that Applicant had also borrowed an amount of Rs.1,26,462/- from Respondent No.2. However, the

Applicant refused to marry Respondent No.2 and threatened her that if she lodges any complaint against him then he would spoil her life.

6. Mr Sujit Shelar and Ms Karuna Yadav, in unison, submitted that the parties have amicably settled the dispute. It is submitted that Respondent No.2 has also filed the Consent Affidavits dated 6.7.2021 and 23.11.2022. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. They submitted that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of ***Shambhu Kharwar Vs. State of Uttar Pradesh and Anr.***¹ They invited attention of this Court to the Affidavit of Respondent No.2 dated 23.11.2022 and submitted that Respondent No.2 and Petitioner met through a Social Networking Site. Further, they met on several occasions, which eventually blossomed into a love affair and consensually got into relationship. After that their relationship strained on account of trivial altercations which snow balled into misunderstandings resulting into filing of the impugned FIR. Learned Counsel for Respondent No.2 submits that Respondent No.2 has no complaint against the Petitioner. Further, they also relied on the Judgments of this Court (Nagpur Bench) in ***Aditya s/o Hemant Deshmukh Vs. State of Maharashtra & Anr.***,² decided on 12.7.2021, and ***Taj @***

1 AIR 2022 SC 3901.

2 Cri.Application No.379 of 2020.

Arjun s/o Ajay Mishra & Anr. Vs. State of Maharashtra,³ decided on 22.10.2019.

7. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

8. It reveals from the record that Respondent No.2 had filed the Consent Affidavits duly affirmed before the Notary and a copy of the Aadhar Card duly attested by her. Respondent No.2 is present before the Court and stated that she has no objection if the impugned FIR and consequent proceedings are quashed against the Applicant, given the settlement between them. Respondent No.2 reiterated the facts mentioned in her affidavits and stated that she lodged the impugned FIR due to misconception and misunderstanding. Respondent No.2 has been identified by his Counsel. Learned APP has verified the original Aadhar Card of Respondent No.2.

9. We have examined the facts of the present case. Based on the material on record, more particularly the affidavit of the second Respondent, it is seen that the FIR was lodged due to a misunderstanding between the parties. Admittedly, at the time of the alleged incident, Respondent No.2 was aged about 35 years. It revealed from the record that the Petitioner and Respondent No.2

³ Cri.Application No.988 of 2019.

had known to each other since 2017 and, after that, have been intimate with each other. The relationship between the parties was of a consensual nature. The allegations do not state that the Petitioner had given a promise to Respondent No.2 to marry which at the inception was false and on the basis of which Respondent No.2 was induced into a sexual relationship. Moreover, the parties amicably settled their dispute, the possibility of conviction is remote and bleak. Further continuation of the proceedings arising out of the impugned C.R.No.301 of 2018 would be tantamount to the abuse of the process of law. Since Respondent No.2/first Informant will not support the allegations made by her in the impugned FIR, nothing fruitful will come out of the prosecution. Taking the allegations in the FIR as they stand, the ingredients of the offence under Section 375 of IPC are absent.

10. Considering the peculiar facts and circumstances, we see no difficulty in quashing the impugned FIR. Accordingly, the Application is allowed, and the impugned C.R.No.301 of 2018 registered at Arnala Sagari Police Station, Palghar, and the proceedings arising thereof, are quashed and set aside. The Rule is made absolute in the above terms.

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

12. Learned Counsel for Respondent No.2 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.

(R.N.LADDHA,J.)

(REVATI MOHITE DERE)