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

CRIMINAL APPLICATION NO.559 OF 2022

Nikhil Jaykumar Tonk	...Applicant
Versus	
1.The State of Maharashtra	...
2.Jyoti Kamalkishore Joshi	...Respondents

Mr. Yogendra Giri for the Applicant.

Mr. J. P. Yagnik APP for the Respondent No.1-State.

Mr. K. H. Giri for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
S.M. MODAK, JJ.**

DATE : 30TH SEPTEMBER 2022

P.C. :

1 Heard learned counsel for the parties.

2. By this application, the applicant, aged 33 years seeks quashing of the FIR, bearing C. R. No.563 of 2021, registered with the Santacruz Police Station, Mumbai, for the alleged offences punishable under sections 354A and 354D of the Indian Penal Code.

3. Quashing is sought on the premise, that the parties

i.e. applicant aged 33 years and the respondent no.2, aged 31 years, have settled their dispute amicably.

4. Perused the papers. A perusal of the FIR shows that the applicant and the respondent no.2 were both married and from their respective marriage, have children. It further appears from the FIR, that the applicant and the respondent no.2, were in a relationship and that there used to be trivial quarrels between them. According to the respondent no.3, on 31st December 2021, she met the applicant and that there was a quarrel between them, and that in the said quarrel, the applicant threw her mobile from the car resulting in the phone getting switched off. She has stated that, she picked up her mobile and again sat in the car. Respondent no.2 has alleged, that they then drove to Khargar and while driving the applicant inappropriately touched her, thereby outraging her modesty. She has further alleged that the applicant would frequently call her, however, she refused to take her calls. Pursuant thereto, the respondent no.2 lodged the aforesaid FIR.

5. After investigation, charge-sheet was filed and, the

case is presently pending before the learned J.M.F.C. 71st Court, Mumbai. It appears from the FIR, that the parties were in relationship from October 2019, till lodging of the FIR. It appears from a perusal of the FIR, that the aforesaid FIR, was lodged by the respondent no.2, as the applicant was seeking time to take divorce from his wife.

6. Learned counsel for the respondent no.2 states that the respondent no.2 has filed an affidavit dated 16th April 2022, which is at Exhibit-D to the application, duly affirmed before the notary. In the said affidavit, in paragraph 2, the respondent no.2 has stated that she was intending to get married to the applicant, after divorcing her husband, however, the same did not materialize. She has further stated, that she was in love with the applicant and that the FIR, was an outcome of some misunderstanding. She has further stated, that she has amicably settled the dispute and has no objection, to quashing the proceedings. The respondent no.2 is present in person and she re-iterates what is stated by her in her affidavit. Learned counsel for the respondent no.2, has tendered, a xerox copy of the Aadhar card of the respondent no.2, duly attested by her.

The same is taken on record. The respondent no.2 is identified by her counsel. Learned APP has also verified the original Aadhar card.

7 Considering the nature of dispute, amicable settlement between the parties and what is stated by the respondent no.2 in her affidavit, there is no impediment in allowing the petition.

8 The petition is accordingly allowed and the FIR bearing C.R. No. 563 of 2021 registered with the Santacruz Police Station, Mumbai, and consequently the proceeding, arising therefrom, which is pending before the 71st Court, Metropolitan Magistrate, Bandra, Mumbai, are quashed and set-aside.

9 The applicant to pay the cost of Rs.25,000/- to the **Maharashtra Police Welfare Fund bearing Account No.914010029005759, IFSC No.UTIB0000060** within three weeks from today.

10 Needless to say, that the aforesaid order of quashing, is subject to complying with the order of deposit of cost within

the stipulated period.

11 Application is disposed of accordingly.

12. Stand over to **18th November 2022** for recording compliance of the order of deposit of cost.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.