

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1030 OF 2021

Kiran Tanaji Limbhore

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

....

Ms Janaki Ravi i/b. M/s. Hulyalkar and Associates for the Petitioner.

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

Respondent No.2 is present.

CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.
DATED: 11th JANUARY, 2022.

P.C.:-

1. Heard learned counsel for the Petitioner and learned APP for Respondent-State. Respondent No.2 is personally present in this Court by virtual mode.

2. Perusal of the order of this Court dated 03/01/2022 shows that on the earlier date also Respondent No.2 was present in this Court and she sought permission to file an affidavit. On the last date i.e. on 03/01/2022 an affidavit under caption 'consent-affidavit-in-reply' was taken on record and marked 'X' for identification.

3. The learned counsel for the Petitioner submits that at the

instance of Respondent No.2 First Information Report No.609 of 2019 was lodged against the Petitioner on 05/07/2019 registered with Talegaon Dabhade Police Station, District Pimpri Chinchwad for commission of offences punishable under Sections 376, 504 and 506 of the IPC and Sections 3(1)(w)(ii) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. It is submitted before this Court that the Petitioner and Respondent No.2 were attending one private class. Their friendship initially turned in close association and subsequently love relationship developed between the Petitioner and Respondent No.2. It is then submitted that on certain issues there occurred a communication gap between the Petitioner and Respondent No.2 and under the erroneous impression and assumption, Respondent No.2 lodged a report against the Petitioner. It is further submitted that post filing the report, better sense prevailed over the parties and Petitioner No.1 and Respondent No.2 married each other. Presently, Respondent No.2 is carrying pregnancy and on her free will and wish she submitted an affidavit before this Court under the caption 'consent-affidavit-in-reply'. It may be useful to refer certain statements from the said affidavit and the same read thus:-

“2. I say that at the intervention of our friends, family and well-wishers, matter came to be settled amongst ourselves

amicably out of the court. Accordingly our marriage has been solemnized on 14.02.2020 before Bhagyashree Mangal Karyalay as per Hindu rituals and custom 27.08.2020 thereafter the said marriage has been registered under Special Marriage Act, 1954 before the Marriage Officer Mr. A.S. Hingane at the office of Registrar of Marriage, Pune in the presence and under the blessings of family, friends and relatives. Hereto annexed and marked as Exhibit-A (colly) is the copy of Certificate of Marriage and marriage photographs.

3. That, the abovementioned matter came to be settled amicably out of the court and now I am a legally wedded wife of the Petitioner and I have no grievance against the Petitioner any further concerning to FIR No.609 of 2019 registered with Talegaon Dabhade Police Station, Pune. I am not desirous to drag the applicant in the criminal proceedings concerning instant FIR any further and thus, I am filing the present affidavit on my own wish/volition and without there being any force or coercion from any person of any nature whatsoever.”

4. Learned counsel for the Petitioner submitted that in view of the present scenario, the proceedings pursuant to the FIR lodged at the instance of Respondent No.2 would be nothing but a futility and as the parties have decided to reside together as legally wedded husband and

wife by forgetting the past and when the parties are willing to open a new chapter in life in future, lodgment of report or the proceedings pursuant to the report shall not be a hurdle in their future life. Learned counsel for the Petitioner has placed reliance on the decision of the Apex Court in ***Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]*** and ***Gian Singh vs. State of Punjab and Anr. 2012 AIR SCW 5333***.

5. Considering the fact that respondent No.2 filed an affidavit in this Court stating that the dispute between the parties is amicably settled, and the lodgement of the FIR at her instance was due to misunderstanding and she has no objection for quashing the FIR, in our opinion, continuation of the case would be nothing but a futile exercise.

6. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of ***Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582]***, we find that no purpose would be served by keeping the FIR alive, except burdening the Criminal Courts which are already overburdened. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of ***Narinder Singh vs. State of Punjab [2014 AIR SCW 2065]***, we are of the considered view that there is no impediment in quashing the FIR in question.

7. Considering all the above referred facts, we are of the opinion that the Petitioner has made out a case for allowing the petition in terms of prayer clause (a). Accordingly, the First Information Report No.609 of 2019 lodged against the Petitioner on 05/07/2019 registered with Talegaon Dabhade Police Station, District Pimpri Chinchwad for commission of offences punishable under Sections 376, 504 and 506 of the IPC and Sections 3(1)(w)(ii) and 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 is quashed.

8. The petition stands disposed of accordingly.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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