

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

CRIMINAL WRIT PETITION NO.3103 OF 2022

Manish Singh Yadav
Age 26 years, Indian Inhabitant,
Occ: Service, Residing at : Hakuha,
Khokipur, Khokipur, Sultanpur,
Uttar Pradesh ... Petitioner.

Vs.

1. The State of Maharashtra
(At the instance of Andheri Police
Station Mumbai vide C.R.No.771/2022

2. XYZ,
Age 25 years,
Add: Room No.306, CB Wing,
Trishikesh Building, Lokhandwala,
Mumbai. Respondents.

....

Mrs Ruby Shaikh i/b Mr. Imran Shaikh, for the petitioner.

Mr KV Saste, for Respondent no.1-State.

Mr Manoj Bachate a/w Ms Priyanka Tiwari for Respondent No.2

....

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

DATE : 25 NOVEMBER 2022.

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

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable forthwith, 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.0771 of 2022 registered at the MIDC Police Station, Brihan-Mumbai, alleging the commission of offences punishable under Sections 376 (2)(n) and 420 of the Indian Penal Code. It is stated in the FIR that the Petitioner and Respondent No.2 were introduced to each other on Jeevansathi.Com Website, and they decided to marry with their parent's permission. On 13.2.2021, Petitioner came to Mumbai, and they both went to Hotel Sai Palace, where they had dinner. At that time, Petitioner asked Respondent No.2 to establish physical relations with him on the pretext that he would marry her. After that, Respondent No.2 stayed with him for three days, and during this period, they established sexual relations. It is alleged in the FIR that on 30.5.2022, the Petitioner, along with his relatives, had been to the parental house of Respondent No.2, where rituals of engagement were performed. However, after that, Petitioner refused to marry Respondent No.2.

4. Ms Ruby Shaikh and Mr Manoj Bachate, in unison, submitted that the parties have amicably settled the dispute. It is submitted that Respondent No.2 has filed the consent Affidavit dated 25.11.2022 and the consent terms dated 11.11.2022. It is submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. The learned Counsel for the parties submitted that the present case is squarely covered by the decision of the Apex Court, in the case of *Shambhu Kharwar V. State of Uttar Pradesh and another*¹. They submitted that for three years, Respondent No.2 wanted to marry, hence, she registered her name with the Jeevan Sathi.Com Website. They submitted that the Petitioner and Respondent No.2 had a chat on the Jeevan Sathi.Com Website, and they shared their mobile numbers and started sending messages to each other and became friends. They submitted that the Petitioner and Respondent No.2 decided to marry each other with their parent's permission. However, due to different standards of living and differences of opinion of their families, their marriage proposal was refused by both families.

5. They submitted that due to miscommunication and misunderstanding the second Respondent had lodged the impugned FIR. They submitted that the father of the Petitioner also registered an FIR against the second respondent and her

¹ AIR 2022 SC 3901.

father at Sushant Golf City Police Station, Lucknow being FIR No.0320 of 2022 under Sections 383, 504 and 506 of the Indian Penal Code. They submitted that the Petitioner and Respondent No.2 have amicably settled their dispute by mutual understanding, and settlement has arrived between both the parties out of Court vide Consent Terms dated 11.11.2022. They submitted that as per the Consent Terms, the Petitioner and his father have filed their affidavits regarding the withdrawal of all the allegations levelled against Respondent No.2 at Sushant Golf City Police Station, Lucknow. The learned Counsel for the Respondent No.2 submits that Respondent No.2 has no complaint against the Petitioner.

6. Learned APP for the first Respondent submits that appropriate orders may be passed.

7. It revealed from the record that Respondent No.2 had filed a copy of the Consent Terms dated 11.11.2022 and the Consent Affidavit dated 25.11.2022, and an Aadhar Card duly attested by her. Respondent No.2 is present before the Court and stated that she has no objection if the FIR and the criminal case in question are quashed against the petitioner, given the settlement between them. Respondent No.2 has reiterated the facts mentioned in her affidavit and Consent Terms. Respondent No.2 has been identified by her Counsel. Learned APP has verified the original Aadhar Card of Respondent No.2.

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

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 misconception and misunderstanding. Admittedly, at the time of the alleged incident, Respondent No.2 was aged about 25 years. Taking the allegations in the FIR as they stand, the crucial ingredients of the offence under Section 375 of IPC are absent. The relationship between the parties was purely of a consensual nature.

10. It is revealed from the record, that the Petitioner and Respondent No.2 had known each other since 2019 and, after that, have been intimate with each other. They met regularly and engaged in sexual relations a few times. The relationship between them was of a consensual nature. Having regard to the peculiar facts, none of the offences as alleged under Sections 376(2)(n) and 420 of IPC are disclosed against the Petitioner.

11. Considering these facts and circumstances, we see no difficulty in quashing the impugned FIR *qua* the Petitioner. Accordingly, the Criminal Writ Petition is allowed. The impugned

C.R.No.0771 of 2022, registered at the MIDC Police Station, Brihan-Mumbai, is quashed and set aside qua the Petitioner.

12. Rule is made absolute in the above terms.

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

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

(R.N.LADDHA, J.)

(REVATI MOHITE DERE, J.)