

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 5421 OF 2019

Rajkamal Arundidiyar

...Petitioner.

Versus

Jasmin Shaikh D/o Usman Gani Shaikh
and Anr.

...Respondents.

Adv. Ram Prasad Gupta for Applicant Petitioner
Adv. Anjali Mishra a/w Rohit vaishya for Respondent No. 1

CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.

Date : March 15, 2022.

P. C. :

1. The Petitioner is before this Court seeking quashment of the first information report (FIR) bearing Crime No.209 of 2019 dated 12th June 2019 registered at Amboli Police Station, Mumbai on the allegation of commission of offences punishable under section 376(2)(n) of the the Indian Penal Code, 1860.

2. Our attention was invited to the copy of FIR lodged at the instance of Respondent no.1. Respondent no.1 is personally present in this Court. The perusal of FIR shows that Respondent No.1 left her original place of residence 8 years prior to the lodgment of FIR and started living in Mumbai. An occasional acquaintance with Petitioner resulted in a close friendship and after some time, the Petitioner by expressing his wish of marriage and assurance of marriage, established

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physical relationship with Respondent no.1. The Petitioner left Mumbai so as to visit his original place of his residence and after his return, when Respondent no.1 asked him about marriage, by giving evasive reply the Petitioner flatly refused for marriage. The perusal of documents placed on record shows that post lodgment of FIR, within a short span of time, on 15th June 2019 Respondent no.1 made an affidavit stating that the FIR was lodged by her against the Petitioner out of anger. It is further stated in the affidavit that when she gave a second thought to the matter, she found that the Petitioner who has subsequently performed marriage with another woman, leading his marital life happily and as such the FIR against Petitioner and continuity of the proceeding arising therefrom may adversely affect the future life of Petitioner. A copy of the said affidavit made by Respondent on 15th June 2019 is placed on record at page 15.

3. Respondent no.1 has also filed an affidavit dated 15th March 2022 in this Court. In this affidavit, Respondent no.1 has provided some additional explanation. She has stated that as the Petitioner and Respondent no.1 belong to different communities and religions, their parents were not inclined to allow Respondent no.1 and the Petitioner to enter into marital tie. Then it is stated that due to intervention of elderly persons in the society as well as respected persons from both the communities, Respondent no.1 thought it fit to withdraw the allegations

against the Petitioner and she does not desire to proceed further against the Petitioner in Cr. No. 209 of 2019. Accordingly, she has recorded her no objection for quashing the FIR.

4. The counsel for Petitioner submitted that Petitioner is also facing the feeling of remorse and as a bonafide gesture on the part of Petitioner, the Petitioner would file an affidavit in this Court within two weeks from today to submit that for the sufferance caused to Respondent no.1, he genuinely sorry for this mishap and henceforth he would not indulge in any act of an illegality. We accept the statement and the Petitioner is permitted to file an affidavit in this Court within two weeks from today.

5. Considering the above facts, we are of the opinion that no fruitful purpose would be served by keeping the proceedings pending. The case is made out to quash and set aside the FIR. Accordingly, the petition is allowed in terms of prayer clause (a).

[S. M. Modak, J.]

[Prasanna B. Varale, J.]