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

CRIMINAL APPLICATION NO. 1519 OF 2019

Ashraf Mehboob Khan

.. Applicant

Versus

The State of Maharashtra & Another.

..Respondents

.....

Mr. Swapnil Wagh i/b Arati Joshi for the applicant
Mr. Taraq Sayed i/b Mr. Sandeep Bali for respondent no.2
Ms. S.D. Shinde, APP for respondent no.1 – State
Parties present through Video Conferencing

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**CORAM : PRASANNA B. VARALE &
G.A. SANAP, JJ.**

Date : March 25, 2022.

P. C. :

1. Heard learned Counsel appearing for the applicant as well as learned APP for the State and learned Counsel appearing for respondent no.2.
2. By way of present application, the applicant is before this Court for seeking quashment of FIR No. 545 of 2019 dated 07.08.2019 registered at Pune City Police Station, Pune for commission of offence under Section 376(2)(n), 354, 354-C, 343, 323 and 506 of the Indian Penal Code.
3. Perusal of the copy of First Information Report placed on record at

Exh.A on page no.16 and the statement of the complainant show that sum and substance of the report is the casual association between respondent no.2 and the applicant, which subsequently resulted in their close friendship and by undue advantage of such close friendship, the respondent no.2 was subjected to physical exploitation at the hands of the applicant. The learned Counsel appearing for the parties invited our attention to the documents placed on record firstly the reply affidavit filed at the instance of the respondent no.2 dated 17.10.2020. It will be helpful to refer to para 4 and 5 of the said affidavit-in-reply, which read as under :-

"4. I say that I have filed a criminal complaint against the present applicant above named on 07.08.2019, at Yerwada Police Station, and upon my complaint the officers were pleased to record a first information report bearing C.R. No. 0545 of 2019 for the offences punishable under Section 376(2)(n), 354, 354-C, 324, 323, 506 of the Indian Penal Code. It is submitted that Hon'ble Session Court Pune on 16.09.2020, was pleased to allow Anticipatory bail application of applicant above name, as we have come to an amicable settlement I do not intend to further pursue the said complaint hence, I request that the FIR No.0545 of 2019 may kindly be quashed.

5. I say that we worked out an amicable settlement of the dispute which led to registration of F.I.R. bearing C.R. No. 0545 of 2019 for the offences punishable under section 376(2)(n), 354, 354-C, 324, 323, 506 of the Indian Penal Code. I say and submit that the said complaint was lodge by due to misunderstanding and since the said misunderstanding is clear and I have no complaint as against the petitioner and others and I hereby consent for quashing of F.I.R. as the dispute is amicably settled between us as we

both are now happily married and staying together. "
(emphasis supplied by us)

4. Our attention is invited to copy of the Marriage Certificate (*Nikahanama*) placed on record at Annexure B, page 36. The learned Counsel for the applicant and the respondent no.2 submit that due to inadvertence, the translated copy of the document remained to be placed on record and the same would be placed on record within one week from today. Statement is accepted as undertaking to this Court.
5. The learned Counsel then invited our attention to a fresh affidavit filed on behalf of respondent no.2 – complainant, dated 20.12.2021. In the said affidavit, statements made in the earlier affidavit are reiterated. The respondent no.2 was also present before this Court by way of virtual mode and upon a query put to respondent no.2 as to whether the affidavits are filed on her behalf and on her wish or will, without there being any pressure or otherwise, the respondent no.2 submitted to this Court that these affidavits are filed on her behalf on her wish and will and she further added that she is residing with the applicant post marriage for a period of three years happily. It is submitted to this Court that as of now, the applicant and respondent no.2 have resolved their dispute and residing under one roof peacefully as a married couple and are desirous to continue this peaceful marriage life in future also and for that, the lodgment of report and the proceedings arising out of the report shall not be a hurdle. It is also submitted to this Court that the parties are willing to adopt the approach of forgetting the past and looking to the life in future

with a positive approach.

6. Considering all these aspects and considering the fact that the applicant and the respondent no.2 are now in a matrimonial relationship by following appropriate formalities and the respondent no.2 is giving her no objection for quashment of report, we are of the opinion that the lodgment of report and proceedings arising out of the report, would be nothing but a futile exercise. As such, we are of the opinion that a case is made out for exercising our power under Section 482 of the Cr.P.C.
7. Hence, the petition is allowed in terms of prayer clause (i) and disposed of accordingly.

[G.A. Sanap, J.]

[Prasanna B. Varale, J.]