

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1793 OF 2023

Nisar Ahmed Gul Mohammad Shaikh ... Petitioner

Versus

The State of Maharashtra and another ... Respondents

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Mr. Tapan Thatte alongwith Mr. Zahir Mulla instructed by Mr. Pankaj Thakur for the Petitioner.

Ms. S.D. Shinde, APP for the State.

Mr. M.S. Mulla for Respondent No.2.

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**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 21st DECEMBER 2023

P.C. :-

. This Petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is preferred for quashing the First Information Report No.0904 of 2020 (hereinafter referred to as “FIR”, for short) dated 10 September 2020 registered with Vijapur Naka Police Station, Dist. Solapur against the Petitioner for the offences punishable under Sections 498(A), 494, 506 and 376 of the Indian Penal Code (IPC), Sections 9 and 11 of the Prohibition of Child Marriage Act and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act and Special Case No. 316 of 202 arising out of said FIR.

2. The parties have resolved their differences and the complainant has no objection for quashing the proceedings. The

complainant has filed Affidavit consenting for quashing the proceedings against the Petitioners. She is present in Court through VC. She reiterated that she has no objection for quashing the proceedings. Affidavit is taken on record.

3. Learned Counsel for the Petitioner submitted that accused No.1 who is the son of the Petitioner had preferred Criminal Writ Petition No.5723 of 2021 which has been allowed vide Order dated 24th August 2022 and the impugned proceedings qua the said accused were quashed by this Court with consent of the complainant. The Petitioner is not charged for commission of any offence under the provisions of POCSO Act whereas the accused No.1 – Mohsin Ahmed Nisar Ahmed Shaikh was charged for offence under provisions of POCSO Act and the proceedings against him are quashed by this Court.

4. We have perused order dated 24th August 2022. Apparently, the Petitioner was prosecuted for violation of provisions of Prohibition of the Child Marriage Act. The offence under POCSO Act and Prohibition of Child Marriage Act has been quashed by this Court in the Petition filed by the Petitioner's son. Order dated 24th August 2022 indicates that the complainant had filed the consent Affidavit dated 19th August 2022 and stated that pursuant to amicable settlement she went back to her matrimonial home and they are cohabiting together. She has no objection to quash the FIR in question. The Court had interacted with the complainant and it was noted that act of Respondent No.2 to give no objection to quash the FIR was voluntary.

5. Considering the aforesaid circumstances and the fact that complainant has no objection for quashing the proceedings, the relief sought in the Petition can be granted.

ORDER

- (i) Criminal Writ Petition No. 1793 of 2023 is allowed.
- (ii) The impugned proceedings in Special case No.316 of 2021 arising out of Crime No.904 of 2020 pending before the Special Judge, Solapur are quashed and Set aside.
- (iii) Criminal Writ Petition is disposed off.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)