

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

VAISHALI
ANIL
TIKAM

CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No.909 OF 2018

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Chandrakant Ganpat Lohar

...Applicant

Vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Amin Solkar for the Applicant

Mr. Ajay Patil, APP for the State

Mr. Gaurav Shenoy i/by Rahila Memon for Respondent No.2

CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ

DATED : 29th AUGUST, 2023PC.:

1. The prayer is for quashing of the offence in Crime No. 224 of 2018 for offence punishable under Section 376, 394, 452, 323, 504, 506 r/w. 34 of the IPC registered on 26th June, 2018.

2. The genesis of the prosecution story is, Respondent No.2 Complainant got married way back in 2011 and out of the said wedlock, she gave birth to two daughters. Since she had disputes with the said person, she started residing independently and got acquainted with the Applicant with whom after having love relation, claimed to have married.

3. Initially after the marriage with the Applicant on 14th July, 2016, the things were smooth. However, subsequent thereto, it is claimed that the Applicant started ignoring Respondent No.2- Complainant. Alleging sexual exploitation and ill-treatment, the complaint came to be lodged which has resulted into registration of the offence.

4. During the course of hearing, the counsel for Respondent No.2 - Complainant has tendered an affidavit stating that for the reasons disclosed in the said affidavit sworn on 28th August, 2023, she is willing to extend the consent for quashing. The perusal of the affidavit depicts that Respondent No.2 – Complainant has narrated the circumstances which led to filing of the complaint and registration of offence. She has specifically stated in the affidavit that she has no grievance against the Applicant and it is only out of prevailing circumstances, as reflected in the concerned affidavit, the offence came to be registered.

5. Respondent No.2 complainant, who is present in Court, is duly identified by her counsel. Having gone through the affidavit, we have requested learned APP Mr. Ajay Patil to interact with Respondent No.2- Complainant so as to ascertain that she is voluntarily extending the consent. Respondent No.2 Complainant through Learned APP has informed that the

affidavit sworn and placed on record extending the consent is voluntary act on her part and she has willingly extended consent for quashing.

6. In view of the stand taken by Respondent No.2- Complainant the very object with which the Applicant is sought to be prosecuted cannot be achieved or taken to its logical end and the Applicant cannot be made to face rigors of prosecution before the Sessions Court.

7. Having regard to law laid down by the Apex Court in the matter of *Gian Singh vs. State of Punjab and Another* reported in (2012) 10 SCC 303 and *Narinder Singh & Ors. Vs State of Punjab & Anr.* reported in (2014) 6 SCC 129, we deem it appropriate to allow Application in terms of prayer clause (a).

8. The prayer for quashing stands allowed subject to payment of cost of Rs.50,000/- to be paid by the Applicant to the Association of Parents of Mentally Retarded Children by depositing the same in the State Bank of India Account No.00000010884930648, IFSC Code SBIN0009056, within four weeks from the date of receipt of the order and receipt to that effect be placed on record within a week thereafter, failing which the order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Applicant in accordance with law.

9. Criminal Application is disposed of in the aforesaid terms

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)