

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.141 OF 2023**

Nitin Pandit Gade] Applicant
Vs.

1. State of Maharashtra]

2. XYZ] Respondents

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Mr. Siddharth A. Mehta, for Applicant.

Mr. Y.M. Nakhwa, for Respondent No.1-State.

Mr. Harshal Sathe, for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 28th February, 2023.

ORDER:[Prithviraj K. Chavan, J.]:

1. Heard.

2. Rule.

3. Rule is made returnable forthwith. With the consent of the parties, application is taken up for final disposal.

4. Learned A.P.P waives notice on behalf of respondent No.1-State. Mr. Sathe, learned Counsel waives notice for respondent No.2(original Complainant).

5. By this application under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the applicant seeks quashing of the F.I.R registered vide C.R. No.120 of 2014 with Pimpri Police Station, Pune for the alleged offences punishable under section 376 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the Sessions Court, Pune, being Sessions Case No.638 of 2014. Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as under.

7. Respondent No.2 aged 32 years and the applicant aged 36 years came in contact with each other while attending coaching classes. Thereafter, respondent No.2 used to meet the applicant near D.Y. Patil College.Their friendship turned into a love affair. Thereafter, respondent No.2 and applicant had sexual relations on

several occasions. It is alleged that the applicant assured the respondent No.2 that he loves her and would marry her. Ultimately, in July, 2011, respondent No.2 became pregnant. She was taken by the applicant to "Prem Clinic" on 9th July, 2011. The applicant convinced the respondent No.2 to abort the fetus and accordingly, on 11th July, 2011, fetus was aborted in the same Prem Clinic. Even after the abortion, sexual relations between the respondent No.2 and the applicant continued on the alleged promise of marriage given by the applicant. Since, the applicant did not keep his word, a report came to lodged against him, as above.

8. It is submitted that the parties have amicably settled their dispute. Learned Counsel for the respondent No.2 has tendered affidavit of the respondent No.2 dated 28th February, 2023 duly notarized before the Notary. A photostat copy of the Aadhar Card of the respondent No.2 duly attested by her is annexed with the said affidavit. The said affidavit is taken on record. Paragraphs 1 to 7 of the affidavit are self explanatory, which read thus;

"1. That I am the Respondent No.2 in the aforesaid matter and submit that I was acquainted with the Applicant. Subsequently, we entered into a love affair with each other. During the course of the acquaintance, I entered into an intimate relationship with the Applicant as the Applicant had promised to enter into a matrimonial relationship with me.

2. However, during the course of the relationship, the Applicant stopped communicating with me and on enquiry I was informed that the Applicant got married to another person. Out of the said rage, at my instance, a FIR bearing No.120 of 2014 was registered against the Applicant on 29.03.2014 with the Pimpri Police Station, Pune u/s 376 of the Indian Penal Code. In pursuance thereof, the Applicant was arrested on 29.03.2014.

3. Subsequently, the officers of the Respondent No.1 herein completed investigation in the aforesaid matter and a charge-sheet was filed bearing No.144 of 2014 on 01.09.2014.

4. In furtherance thereof, the aforesaid matter was committed before the Ld. Sessions Judge, Pune for Trial vide a Sessions Case No.638 of 2014 and is at the stage of recording of Evidence.

5. However, during the pendency of the Sessions Case No.638 of 2014, I being of 32 years of age, the elder members of my family decided that I should get married and advance in my life as the Applicant was already married to another person.

6. In terms thereof, I have decided to progress in life and under the guidance of the senior members of my family, I am in the process of initiating a matrimonial relationship and I have already initiated taking steps in that regards and I do not wish to carry the baggage of the said proceedings in the next stage of my life which might affect my future relationship.

7. Owing to such circumstances, I do not wish to pursue the proceeding arising out of the FIR bearing No.120 of 2014 registered against the Applicant on 29.03.2014 with the Pimpri Police Station, Pune u/s 376 of the Indian Penal Code along with the Sessions Case No.638 of 2014 pending before the Ld. Sessions Judge, Pune and in terms thereof I am consenting to the Quashing of the Proceedings as sought by the Applicant vide the above referred Criminal Application No.141 of 2023 pending before the this Hon'ble Court.

8. Hence the present Affidavit alongwith a copy of the Aadhar Card for identification".

9. Respondent No.2 is present in the Court. On being questioned, respondent No.2 reiterates what is stated by her in her affidavit. Learned Counsel for the respondent No.2 identified her. Learned A.P.P has verified the original Aadhar Card of the respondent No.2.

10. Considering the nature of the dispute, amicable settlement between them, affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in case of **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment in allowing the application.

11. The application is accordingly allowed. The F.I.R bearing C.R. No.120 of 2014 registered as against the applicant and consequently, the proceeding pending before the learned Sessions Judge, Pune being Sessions Case No.638 of 2014, are quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

12. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]