

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

CRIMINAL WRIT PETITION NO. 777 OF 2022

Tipu Bharti Javed Hussain ...Petitioner
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Sameer Sharif a/w Mr. Suhail Shariff a/w Samar Pal, Advocate for Petitioner.

Ms. Bhakti Deshpande, Advocate for Respondent No.2.

Mrs. Geeta P. Mulekar, APP for Respondent – State.

Tipu Bharti Javed Hussain, Petitioner Present in Person.

Respondent No.2 Present in Person.

Masal, Police Constable, Manpada, Thane Police Station

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 31st MARCH, 2023.

P.C. :-

1. Petition is for quashing the proceedings in R.C.C. No. 18 of 2022 pending before the Court of 3rd Joint J.M.F.C., Kalyan which are arising out of C.R. No.665 of 2021 registered with Manpada Police Station, Thane on 10th November, 2021 for offences under Sections 376, 376(2)(n), 417, 323, 504 and 506 of Indian Penal Code (for short 'IPC') and Section 66(e) of Information Technology Act, 2000.

2. The First Information Report (for short 'FIR') was registered by Respondent No.2 alleging that, she was acquainted

with, Petitioner while they were working together. Petitioner had expressed his affection for Respondent No.2 told her that, he would marry her. The Respondent No.2 voluntarily consented for the marriage. Petitioner introduced the complainant to his parents. There were talks about their marriage. The parents of Respondent No.2 were against the marriage. In August-2019 the Respondent No.2 went to the house of Petitioner on his call. His parents were in the house. In the evening, the parents of Petitioner went out. At that time, there was physical relationship between Petitioner and Respondent No.2. Accused demanded money. Father of complainant refused to consent for marriage between Petitioner and Respondent No.2. Even Respondent No.2 refused to marry him. The accused then threatened that, her objectionable video recording would be made viral on social media and had forceful sexual relationship with her. The Respondent No.2 was pregnant. Pregnancy was terminated. The accused refused to perform marriage. FIR was registered on 10th November, 2021.

3. Learned Advocate representing both sides has submitted that, the differences and disputes between the parties are amicably resolved without any pressure or coercion. The Respondent No.2 has no objection for quashing the proceedings initiated by her.

4. The Respondent No.2 has filed affidavit dated 24th February, 2022 stating that, she had filed FIR in fit of rage and willing to abandon all the allegations levelled against the Petitioner. She has entered into compromise with Petitioner and settled the differences and disputes amicably. The FIR dated 10th November, 2021 registered with Manpada Police Station, Kalyan vide C.R. No.I-665 of 2021 and the proceedings in R.C.C. No.18 of 2022 which are presently pending before the Sessions Court in Session Case No.89 of 2022 may be quashed and set aside. Petitioner has also filed affidavit executed in Talaja Central Prison stating that, he undertakes to marry Respondent No.2 after he is released on bail. His family members are supporting his marriage with Respondent No.2. The Respondent No.2 filed additional affidavit dated 26th September, 2022 stating that, after the affidavit dated 22nd June, 2022 was submitted by Petitioner with an undertaking to marry her as soon as he is released on bail, he was granted bail vide order dated 4th July, 2022. After his release on bail the Petitioner has performed marriage with Respondent No.2 on 7th September, 2022 under the provisions of Special Marriage Act, 1954. After the marriage the Petitioner has not illtreated her. She do not want to proceed against the Petitioner in Sessions Case No.89 of 2022 pending before the Sessions Court at Kalyan. She has no objection

for quashing the proceedings arising out of C.R. No.I-665 of 2021 which are subject matter of Sessions Case No.89 of 2022.

5. On perusal of FIR it can be seen that, the complainant was major. She was acquainted with the accused. There was physical relationship between them. Apparently the relationship was of consensual nature. The Petitioner has performed marriage with Respondent No.2. Considering the factual aspect as stated above and the affidavits filed by respective parties, the proceedings can be quashed.

ORDER

- i. Criminal Writ Petition No.777 of 2022 is allowed.
- ii. Proceedings in Sessions Case No.89 of 2022 pending before the Court of Sessions at Kalyan which are arising out of C.R. No.I-665 of 2021 registered with Manpada Police Station, Dist. Thane are quashed and set aside.

[PRAKASH D. NAIK, J.]

[A.S. GADKARI, J.]