

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1418 OF 2020**

Nishant Pravin Patel

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Shashikat P. Choudhari a/w Mr. P. P. Pawar, for the Petitioner.

Mrs. G. P. Mulekar, APP for Respondent No. 1-State.

Ms. Kishori Tribhuvan, for Respondent No. 2.

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2023.07.31
10:55:01 +0530

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 25th JULY, 2023

PC. :

1. Petitioner/Accused in Sessions Case No. 35 of 2018, pending on the file of the learned Additional Session Judge, Dindoshi, Mumbai, arising out of C.R. No. 653 of 2017 registered with Malvani Police Station, Mumbai, under Sections 376 and 420 of the IPC has filed present Petition under Article 226 of the Constitution of India and under Section 482 of Cr.P.C., for quashing of the said case with the consent of Respondent No. 2, the victim.

2. Learned Advocate for the Petitioner submitted that, due to intervention of the family, friends and other respected persons from the society, the Petitioner and Respondent No. 2 have settled their disputes and

differences and the Respondent No.2 has filed her Affidavit giving her no objection for quashing of the present crime. She therefore, prayed that Sessions Case No.35 of 2018 may be quashed.

3. Learned Advocate for Respondent No.2 submitted that, the Respondent No.2 has filed Affidavit dated 13th July 2023 giving her consent for quashing of the said case.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 13th July 2023 and her 'no objection' for quashing the crime in question.

4. Perusal of FIR reveals that the Petitioner and Respondent No.2 were working in the same company and were team mates. Their friendship subsequently blossomed into an affair. Petitioner No.1, by extending promise to marry established physical relations with Respondent No.2. Subsequently, the Petitioner started avoiding the Respondent No.2. The Respondent No.2 therefore confronted with the Petitioner, upon which he informed her that his family members are not in favour of their marriage. He subsequently resiled from his promise and therefore present crime is registered.

It appears to us that the relations between Petitioner and Respondent No.2 were consensual in nature between two adult persons. As noted earlier, the Petitioner by giving promise to marry to Respondent No.2 has indulged into establishing physical relations with her.

5. In view of the above, we are inclined to quash Sessions Case Sessions Case No.35 of 2018 pending on the file of the learned Additional Session Judge, Dindoshi, Mumbai, arising out of C.R. No.653 of 2017 registered with Malvani Police Station, Mumbai.

6. As we expressed our opinion for quashing of said Sessions Case No.35 of 2018 pending on the file of the learned Additional Sessions Judge, Dindoshi, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.1,00,000/- to Tata Memorial Centre (Tata Memorial Hospital), Dr.Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

We direct the Petitioner to pay a cost of Rs.1,00,000/- to Tata Memorial Centre (Tata Memorial Hospital), Dr.Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

The details of the bank Account for payment of cost are as under :-

Bank Name :- Central Bank of India

Branch Name :- TMH, Patel, Mumbai-400 012.

Account Name :- Tata Memorial Centre

(Tata Memorial Hospital)

Account Number :- 1002449683

IFSC Code :- CBIN0284241

Petitioner to deposit the said cost of Rs.1,00,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

7. In view of above and subject to payment of cost, Petition is allowed in terms of prayer clause (b).

8. It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived automatically and in that event, the Sessions Court will proceed with the said Sessions Case No.35 of 2018 expeditiously.

9. List the Petition on 18th August 2023 under caption 'for reporting compliance' of present Order.

10. All the concerned to act on the basis of an authenticated copy of this Order.

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)