

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 282 OF 2022
WITH
CRIMINAL APPLICATION NO. 1221 OF 2022

Hitesh Vijay Shetty

..Applicant

V/s.

The State of Maharashtra & Anr.

..Respondents

Mr. M.K. Kochrekar a/w Prathamesh Naik for the Applicant.

Mr. Y.M. Nakhwa, APP for the Respondent/State.

Mr. Ganesh Gole for Respondent No.2.

PSI Anil Pawar attached to Ghatkopar Police Station present.

PSI Shirdhankar attached to Andheri Police Station present.

CORAM : SUNIL B. SHUKRE, AND
ABHAY S. WAGHWASE, JJ.

DATE : 14th MARCH 2023

P.C.

1. Heard learned counsel for the Applicant, learned APP for the State and the learned counsel for the victim of crime. In both these applications, the accused and the victim of crime are same and the only difference is that victim of crime has filed two separate FIRs making similar allegations of molestation, rape threats of life and criminal incrimination against the accused i.e. Applicant. On the basis of such FIRs, two crimes have been registered, one is Crime No. 794 of 2022 with Ghatkopar Police Station and other is Crime No. 1023 of 2021 with Police Station

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Andheri. Crime No. 794 of 2022 is registered at the instance of Respondent No.2 i.e. victim of crime against the Applicant for offences punishable under Sections 376, 376 (2), 506, 504 and 328 of the I.P.C., while Crime No. 1023 of 2021 has been registered at the instance of Respondent No.2 against the Applicant for offences punishable under Sections 354(D), 500, 509 and 506 of I.P.C. The common feature of both these crimes is to be found in the commonality of the allegations made by Respondent No.2 against the Applicant, which lies in outraging the modesty of the victim and forcibly establishing physical relationship with the Applicant.

2. The learned counsel for the Applicant and learned counsel for Respondent No.2 both unanimously submit that the aforestated offences came to be registered against the Applicant only out of some misunderstanding and in the state of anger that Respondent No.2 had against the Applicant, for the reasons stated in the detailed affidavit filed by Respondent No.2 in Criminal Application No. 282 of 2022. Of course, they also submit that even in Criminal Application No. 1221 of 2022, affidavit which is more or less on similar lines has been filed separately by Respondent No.2. They submit that the Applicant and the Respondent No.2 both have decided to move forward in life and live in peace, leaving aside all the bitterness and ill feelings in between the Applicant and the Respondent No.2.

They also submit that basically the underlying dispute between the Applicant and the Respondent No.2 is private and it does not transcend in any manner into public domain and therefore, the settlement arrived at between the Applicant and Respondent No.2 deserves to be accepted and acted upon by passing a suitable order by this Court, in view of the law settled by the Apex Court in various cases, such as :

- (i) *Narinder Singh and Others v/s State of Punjab and Anr.*¹
- (ii) *Gian Singh v/s. State of Punjab and Anr.*²

3. In order to verify the genuineness of the settlement arrived at between the parties, which is stated to be of voluntary nature, we have personally inquired with the Applicant and the Respondent No.2, who are present before this Court and who have been identified by their respective Counsel. Both of them state that they have voluntarily and without coming under any stress or pressure amicably settled the dispute which has arisen partly due to some misunderstanding and partly due to feelings of anger on the part of Respondent No.2.

4. Learned APP submits that the offences registered against the Applicant are of serious nature and therefore, the State would not approve of the settlement so reached between the parties.

1 (2014) 6 SCC 466

2 (2012) 10 SCC 303

5. After considering the affidavits in reply filed by Respondent No.2, the responses given by the Applicant and Respondent No.2 to this Court during their inquiry by us and the allegations made in FIR filed by Respondent No.2 against the Applicant, we are of the view that the dispute involved in the present crime has no public characteristic and it is essentially of private nature which has arisen due to misunderstanding and annoyance experienced by Respondent No.2. Therefore, as per the settled principles of law, there can be an amicable settlement for resolution of such a dispute which indeed has already been arrived at between the Applicant and Respondent No.2 in a voluntary manner. Therefore, the amicable settlement between the parties deserves to be respected by this Court and a suitable order passed for giving effect to it. Accordingly, we are of the opinion that the applications deserve to be allowed.

6. Hence, the order:

(i) Criminal Application No. 1221 of 2022 is allowed in terms of prayer clause (b), which reads thus:

“(b) This Hon’ble Court be pleased to quash and set aside the C.R. No. 1023/2021 dated 01.09.2021 registered with Andheri Police Station for the offence punishable under Section 354(D), 500, 509, 506 of Indian Penal Code.”

(ii) Criminal Application No. 282 of 2022 is allowed in terms of prayer clause (a) which reads thus:

“(a) This Hon’ble Court be pleased to quash and set aside the impugned FIR vide C.R.No. 794 of 2021 registered with Ghatkopar Police Station under Section 376, 376(2), 506, 504, 324 of Indian Penal Code.”

6. The applications are disposed of in the aforesaid terms.

(ABHAY S. WAGHWASE, J.)

(SUNIL B. SHUKRE, J.)