

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

CRIMINAL WRIT PETITION NO.1220 OF 2023

Syanley Felix Dcunha and others	Petitioners
versus	
The State of Maharashtra and another	Respondents

Mr.Akshey Susher, Advocate for Petitioner.
Mr.Ajay Patil, APP, for State.
Ms.Priyanka S. Tiwari, Advocate for Respondent no.2.

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

DATE : 5th April 2023

PC :

1. By the present Petition, the Petitioner, accused in Sessions Case No.15 of 2022 arising out of C.R No.272 of 2019 registered with Arnala Sagari Police Station, District Palghar, under Sections 376(2) (n), 420 r/w 34 of IPC has prayed for quashing of said case by consent of Respondent no.2, the victim.

2. Perusal of FIR indicates that Respondent no.2 was introduced with Petitioners by common friend. Subsequently with the permission of Petitioner nos.2 to 4 i.e. father, mother and sister of Petitioner no.1, the engagement of Petitioner no.1 with Respondent no.2 was performed on 7th July 2021. Thereafter Petitioner no.1 and Respondent no.2 started residing at a tenanted premises at Saphale. It is alleged that, though Respondent no.2 resisted, Petitioner no.1

established physical relations with her as they had engaged and supposed to perform marriage. Subsequently Petitioner nos.2 and 3 i.e. father and mother of Petitioner no.1 told Respondent no.2 that Petitioner no.1 is not happy with her and asked her to vacate the premises. Respondent no.2 thereafter filed present crime on the ground that though Petitioner no.1 had promised her to marry, subsequently resiled from his promise and during the intervening period established physical relations with her, without her will.

3. Learned Advocate for Petitioners submitted that, Petitioners and Respondent no.2 have resolved their differences and Respondent no.2 has decided to withdraw said case willingly. That, Respondent no.2 has also filed an Affidavit dated 2nd February 2023 which is annexed at page 112 to present Petition. It is stated in the Affidavit that Respondent no.2 is an educated lady and after intervention of friends, she and Petitioner no.1 have reached to an amicable settlement.

4. Respondent no.2 is personally present in the Court and through her Advocate conceded to the fact of affirming said Affidavit dated 2nd February 2023. She also gave her no objection for quashing Sessions Case No.15 of 2022 arising out of FIR No.272 of 2019 registered with Arnala Sagari Police Station, District Palghar. Clause no.9 of said Affidavit states that, Respondent no.2 has no

objection in quashing said Sessions Case No.15 of 2022 pending on the file of Additional Sessions Judge, Vasai arising out of C.R No.272 of 2019 registered with Arnala Sagari Police Station, District Palghar.

5. In view of the above, we are inclined to quash Sessions Case No.15 of 2022 arising out of FIR No.272 of 2019 registered with Arnala Sagari Police Station, District Palghar.

As we expressed our opinion for quashing of said crime by consent of parties, learned Advocate for Petitioners on instructions submitted that, the Petitioners will pay a cost of Rs.50,000/- to Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

We direct the Petitioners to pay cost of Rs.50,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of High Court.

The details of bank account for payment of cost are as follows:-

Bank Name	:	Axis Bank Limited
Branch Name	:	Worli, Mumbai (M.H), Mumbai-400025
Account Name	:	Central Police Welfare Fund
Account Number	:	914010029005759
IFSC Code	:	UTIB0000060

6. In view of above, Petition is allowed in terms of prayer clause (A).

7. It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Petition shall stand revived and in

that case investigating agency shall proceed with investigation of said crime.

8. List the Petition on 3rd May 2023 under caption `for reporting compliance' of present Order.

9. All the concerned to act on an authenticated copy of this Order issued by Registry.

(PRAKASH D. NAIK, J.)

(A.S.GADKARI, J.)

MST