

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1155 OF 2023**

Ashraf Mohammed Waris Ansari

... Petitioner

V/s.

The State Of Maharashtra And Anr.

... Respondents

Mr. Karan Jain for Petitioner.

Mr. Ajay Patil, APP for Respondent No.1-State.

Mr. Bhomesh R. Belan for Respondent No.2.

**CORAM : A.S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 20th APRIL, 2023****PC. :**

1. By the present Petition, Petitioner/original accused has prayed for quashing of Sessions Case No. 349 of 2018 pending on the file of learned Additional Sessions Judge, Greater Mumbai, arising out of C.R. No. 42 of 2018, dated 2nd February, 2018, registered with Shivaji Nagar Police Station, Mumbai, under Sections 376, 313, 420 and 506 of the Indian Penal Code.

2. Learned Advocate for Petitioner submitted that, Petitioner and Respondent No.2 who are *inter-se* relatives, have settled their disputes and differences amicably and Respondent No.2 has decided not to pursue the said case further. He therefore prayed that, Sessions Case No. 349 of 2018 arising out of C.R. No. 42 of 2018 may be quashed.

3. Learned Advocate appearing for Respondent No.2 submitted that, Respondent No.2 has filed a detailed Affidavit dated 13th February, 2023 in the Petition and in para Nos. 8 and 11 thereof, she has stated that, Petitioner has now happily married with other woman and she also wants to move forward in her life by forgetting her past relationship with the Petitioner. She has given her no objection for quashing of the said Sessions Case No. 349 of 2018 arising out of C.R. No. 42 of 2018.

Respondent No.2 is personally present in the Court and through her Advocate reiterated the contents of her Affidavit dated 13th February, 2023 and her “no objection” for quashing of Sessions Case No. 349 of 2018 arising out of C.R. No. 42 of 2018.

4. Perusal of FIR and other documents indicate that, Respondent No.2 is wife of cousin brother of Petitioner. The cousin brother of Petitioner was working at Saudi Arabia and in his absence Petitioner and Respondent No.2 develop intimacy. Petitioner promised Respondent No.2 to marry and subsequently established physical relations with her. Petitioner thereafter took Respondent No.2 at various lodges in Mumbai and Navi Mumbai and committed sexual intercourse with her. After the fact of their illicit relationship, came to the knowledge of husband of Respondent No.2, he had serious bickering with her. After the Petitioner refused to marry with Respondent No.2, she has lodged the present crime.

Perusal of FIR clearly indicates that, relations between Petitioner and Respondent No.2 were consensual, between two adult persons.

5. In view of the above, we are inclined to quash Sessions Case No. 349 of 2018 pending on the file of learned Additional Sessions Judge, Greater Mumbai, arising out of C.R. No. 42 of 2018, dated 2nd February, 2018, registered with Shivaji Nagar Police Station, Mumbai.

6. As we expressed our opinion for quashing of said Sessions Case No. 349 of 2018 arising out of C.R. No. 42 of 2018, learned Advocate for Petitioner on instructions submitted that, the Petitioner 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.

7. We direct the Petitioner to pay a 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 Bombay High Court.

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

Bank Name	:-	Axis Bank Limited.
Branch Name	:-	Worli, Mumbai (M.H.), Mumbai-400 025
Account Name	:-	Central Police Welfare Fund
Account Number	:-	914010029005759

IFSC Code :- UTIB0000060

Petitioner to deposit the said cost of Rs.50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

8. In view of above, subject to payment of cost, Petition is allowed in terms of prayer clause (a).

9. 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 trial Court will proceed with the said Sessions Case No. 349 of 2018 arising out of C.R. No. 42 of 2018 expeditiously.

10. List the Petition on 8th June, 2023 under caption 'for reporting compliance' of present Order.

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

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)