

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

WRIT PETITION No.2289 OF 2022

Mr. Vijay Khillare

...Petitioner

Vs.

State of Maharashtra & Anr.

...Respondents

Ms. Naina Sharma i/by, Ranjeet Chouhan for Petitioner

Mr. Ajay Patil, APP for the State

Mr. Sumedh T. Waghmare for Respondent No.2

**CORAM : NITIN W. SAMBRE &
 RAJESH S. PATIL, JJ**

DATED : 25th AUGUST, 2023

P.C.:

1. Out of Facebook request, the Petitioner be-friended Respondent No.2-Complainant which has subsequently converted into a live-in relationship, particularly in the background of the fact that both were married, and not were getting well along with their life partners.
2. It appears that the Petitioner started parting his ways and withdrawn from the relationship with Respondent No.2 which led to the registration of offence being Crime No. 443 of 2020 punishable under Section 376 (2) (N) and 507 of the IPC.
3. The Petitioner in view of consensual relationship was directed to be released on pre-arrest bail from in which he was charge-sheeted for an

offence referred above, of which quashing is sought.

4. The counsel for Respondent No.2 has placed on record the consent affidavit thereby extending consent for quashing, stating that she is accepting the consensual relationship and as such, even if the offence is non-compoundable under section 320 of the Cr.P.C. In view of theory of consensual relationship being accepted, she has no objection to quash the offence and the charge-sheet.

5. Respondent No.2 – Complainant is physically present in the Court and is also interacted by the learned APP Mr. Ajay Patil, with whom she has acknowledged to have tendered the aforesaid consent affidavit voluntarily.

6. In the aforesaid background, the Petitioner who is a Public Servant, appears to be justified in pursuing the prayer for quashing by consent particularly, when the relationship between the Petitioner and Respondent No.2 is demonstrated to be by consent / consensual.

7. In view of the stand taken by Respondent No.2, the very object with which the Petitioner is sought to be prosecuted cannot be achieved or taken to its logical end and the Petitioner cannot be made to face rigors of prosecution before the Sessions Court.

8. Having regard to law laid down by the Apex Court in the matter of ***Gian Singh vs. State of Punjab and Another*** reported in ***(2012) 10 SCC 303***

and *Narinder Singh & Ors. Vs State of Punjab & Anr.* reported in *(2014) 6 SCC 129*, we deem it appropriate to allow the joint request made by the Petitioner and Respondent No.2 in terms of prayer clause (i).

9. The prayer for quashing stands allowed subject to payment of cost of Rs.70,000/- to the Association of Parents of Mentally Retarded Children in the State Bank of India Account No.00000010884930648, IFSC Code SBIN0009056, within four weeks from the date of receipt of the order and receipt to that effect be placed on record within a week thereafter, failing which the order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Petitioner in accordance with law.

10. Writ petition is disposed of in the aforesaid terms.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)