

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 557 OF 2023**

Ishwar Ramji Baria

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Ronak Shah a/w. Mr.Jigar Shah & Ms.Lisha Mehta for Applicant.

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

Ms.Asba A. Khatib a/w. Ms.Parita Katariya & Ms.Radhika Sharma for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 24th July 2023.****P.C. :**

1. Applicant, accused in RCC No. 863 of 2022, pending on the file of Judicial Magistrate First Class, Court No.8, Thane, arising out of CR No. 893 of 2021, dated 31st December 2021 registered with Navghar Police Station, Bhayandar, District Thane, under Section 376 (2)(n), 313, 420, 506 of Indian Penal Code, has filed present application under Section 482 of Criminal Procedure Code for quashing of the said case, with the consent of Respondent No.2.

2. Learned Advocate for Applicant submitted that, the Applicant and Respondent No.2 have resolved their differences and disputes and the Respondent No.2 has given her no objection for quashing of the said case.

3. Learned Advocate for Respondent No.2 tendered across the bar her Affidavit dated 24th July 2023 duly affirmed before a Notary Public. It is stated therein that, she registered the said crime in the heat of moment under confusion and misunderstanding. In para No.9 thereof, she has given her 'no objection' for quashing of RCC No. 863 of 2022.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 24th July 2023 and her 'no objection' for quashing the crime in question.

4. Perusal of First Information Report indicates that, the Petitioner and Respondent No.2 were working in the same hospital at Charni Road, Mumbai. The Respondent No.2 was a married woman. The Applicant was also a married person. Initially they got acquainted with each other and their acquaintance was ensued into friendship and subsequently it blossomed into an affair. The Applicant by giving promise to marry with the Respondent No.2, established physical relations with her. Under the pretext of marriage, he took her at various hotels at Bhayandar, District Thane. That, due to their relations in October 2021, the Respondent No.2 got pregnant. However, the Petitioner forced her to consume certain medicines, due to which the fetus got deformed in the womb and therefore the Respondent No.2 had to undergo medical termination of pregnancy. In due course of time, the Applicant started avoiding Respondent No.2 and resiled from his promise to marry with her. In this brief premise present crime is registered.

5. After reading the First Information Report, it clearly appears to us that, the relations between the Applicant and Respondent No.2 were consensual in nature between two adult persons. As noted earlier, the Respondent No.2 has given her consent for quashing of the crime in question.

6. In view thereof, we are inclined to quash the said criminal case i.e. RCC No. 863 of 2022 pending on the file of Judicial Magistrate First Class, Court No.8, Thane, arising out of CR No. 893 of 2021, dated 31st December 2021 registered with Navghar Police Station, Bhayandar, District Thane.

7. As we expressed our opinion for quashing of said criminal case i.e. RCC No. 863 of 2022 pending on the file of Judicial Magistrate First Class, Court No.8, Thane, learned Advocate for Applicant on instructions submitted that, the Applicant 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 the date of uploading of Order. The said statement is accepted as an undertaking given to this Court.

8. We direct the Applicant 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 present Order on the official website of Bombay High Court.

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

Bank Name :- Central Bank of India.
Branch Name :- TMH, Parel, Mumbai – 400 012.
Account Name :- Tata Memorial Centre
(Tata Memorial Hospital)
Account Number :- 1002449683
IFSC Code :- CBIN0284241

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

9. In view of above and subject to payment of cost, Application is allowed in terms of prayer clauses (c) & (d).

10. It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Application shall stand revived automatically and in that event, the trial Court will proceed with the said RCC No. 863 of 2022 expeditiously.

11. List the Petition on board on 31st August 2023, under caption 'for reporting compliance' of present Order.

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]

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