



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2530 OF 2023

Akash Prabhakar Shetty

... Petitioner

V/s.

State Of Maharashtra And Anr.

... Respondents

Mr. Satyavrat Joshi i/b Mr. Ashish S. Vernekar for Petitioner.

Mr. S. S. Hulke, APP for Respondent No.1-State.

Mr. Saurabh Butala a/w Mr. Madhur Salkar i/b Mr. Arvind G. Awasarmol for Respondent No.2.

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 18th AUGUST, 2023.

PC. :

1) Amendment in pursuance of Order dated 25th July, 2023 be carried out forthwith.

2) Petitioner, accused in C.C. No. 2513/PW/2023 pending on the file of learned Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai, arising out of C.R. No. 212 of 2023 dated 9th March, 2023 registered with Oshiwara Police Station, Mumbai, under Sections 377 and 323 of the Indian Penal Code, with consent of Respondent No.2.

3) Learned counsel for Petitioner submitted that, Petitioner and Respondent No.2 got married on 20th December, 2020. That, subsequently there were turbulences in their matrimonial relations and the parents of Petitioner decided to perform his marriage with other girl. Their relations

reached to a breaking point of marriage thereafter present crime is registered. He submitted that, Petitioner and Respondent No.2 have executed Consent Terms dated 6th July, 2023 before 2nd Family Court, Bandra, Mumbai in Petition No. A-2469 of 2021. That, Petitioner and Respondent No.2 have resolved their disputes and differences and decided to obtain divorce by mutual consent as contemplated under Section 13B of the Hindu Marriage Act, 1955. That, Respondent No.2 has agreed for giving her no objection for quashing of present crime in the proceedings which would be initiated by the Petitioner before this Court. He therefore prayed that, present case/crime may be quashed.

4) Learned Advocate for Respondent No.2 submitted that, she has already filed Affidavit dated 10th July, 2023 before this Court giving her no objection for quashing of FIR and charge-sheet in the present case. That, the Consent Terms dated 6th July, 2023 filed before the Family Court are annexed as 'Annexure-C' to the said Affidavit.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 10th July, 2023 and her 'no objection' for quashing of the present case.

5) Perusal of FIR indicates that, earlier Petitioner and Respondent No.2 were having an affair and they indulged into physical relations with the consent of Respondent No.2. This fact is apparent from the FIR. Subsequently, Petitioner and Respondent No.2 married to each other on 20th December, 2020. On 15th November, 2021 the Petitioner issued a notice for

divorce to Respondent No.2. That, after the relations between the Petitioner and Respondent No.2 got strained due to the various reasons, more specifically mentioned in the FIR, Respondent No.2 has lodged present crime. In her Affidavit dated 10th July, 2023 Respondent No.2 has stated that, she has settled the differences and disputes with Petitioner and executed Consent Terms dated 6th July, 2023 before the Family Court at Bandra, Mumbai. In para No.12 thereof, she has given her no objection for quashing of present FIR/charge-sheet.

6) In view thereof, we are inclined to quash the said C.C. No. 2513/PW/2023 pending on the file of learned Metropolitan Magistrate, Railway Mobile Court, Andheri, Mumbai, arising out of C.R. No. 212 of 2023 dated 9th March, 2023 registered with Oshiwara Police Station, Mumbai.

7) As we expressed our opinion for quashing of said C.C. No. 2513/PW/2023 learned counsel for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.1,25,000/- to Tata Memorial Centre (Tata Memorial Hospital), Dr. Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

8) We direct the Petitioner to pay a cost of Rs.1,25,000/- to Tata Memorial Centre (Tata Memorial Hospital) 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

Petitioner to deposit the said cost of Rs.1,25,000/- 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, Petition is allowed in terms of prayer clause (a).

10) 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 C.C. No. 2513/PW/2023 expeditiously.

11) List the Petition on board on 15th September, 2023, under caption 'for reporting compliance' of present Order.

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)