

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2480 OF 2022**

Asif Asim Shaikh

...Petitioner

Versus

State Of Maharashtra And Anr

...Respondents

Mr. Manojkumar Tiwari Advocate for Petitioner.

Ms. Fatima Gani for Respondent No.2.

Mr. Ajay Patil, APP for Respondent-State.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 16th MARCH, 2023.**

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P.C.:-

1. By the present Petition, Petitioner/Original Accused in Crime No. I-417 of 2016 dated 6th October 2016 under Sections 376 and 417 of the Indian Penal Code registered with Ulhasnagar Central Police Station, Thane, culminated into Sessions Case No. 31 of 2017 has prayed for its quashing by consent of Respondent No.2, first informant.
2. Heard Mr. Tiwari, learned Advocate appearing for Petitioner, Mr. Patil, learned APP for Respondent No.1 and Ms. Fatima Gani, learned Advocate for Respondent No.2. Perused record.
3. Learned Advocate for Respondent No.2 on instructions submitted that, Respondent No.2 has filed affidavit dated 18th February 2022

consenting to quash the said Sessions Case emanating from the F.I.R. lodged by her. She submitted that, even perusal of F.I.R. would indicate that, there was love affair between Petitioner and Respondent No.2 and when the Petitioner declined to marry with Respondent No.2, she consumed pesticide. When Respondent No.2 was admitted to hospital, Police recorded her present FIR.

4. Respondent No.2 is personally present in the Court and upon a query raised by this Court through learned APP conceded to the said fact that, she does not wish to further pursue the said case and has consented for its quashing.

5. Perusal of FIR and documents annexed to the charge-sheet would indicate that, the Petitioner and Respondent No.2 were having love affair. They had moved together at different places and had also stayed at various lodges. That, when the Petitioner refused to marry with Respondent No.2, out of frustration she consumed pesticide and thereafter present crime has been registered.

6. After taking into consideration the overall view of the present case, we are inclined to accept the prayer of Petitioner for quashing of Sessions Case No.31/SC/2017, arising out of C.R. No. I-417 of 2016 registered with Ulhasnagar Central Police Station, District Thane, under Sections 376 and 417 of the Indian Penal Code and pending on the file of learned Additional Sessions Judge, Kalyan.

7. Learned Advocate for Petitioner on instructions submitted that, as this Court has now inclined to quash Sessions Case along with FIR, his client is ready and willing to pay a costs of Rs.25,000/- to the Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the High Court website. The said statement is accepted as an undertaking given to this Court.

8. We direct the Applicant to pay cost of Rs. 25,000/- to the Central Police Welfare Fund, Director General of Police, Maharashtra State, Mumbai. The details of the bank account for payment of cost are as under:-

Bank Name : Axis Bank Ltd.
Branch Name : Worli, Mumbai [M.H.], Mumbai – 400 025
Account Name : Central Police Welfare Fund
Account No. : 914010029005759
IFSC Code : UTIB0000060

Applicant to deposit the said cost of Rs.25,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

9. Subject to payment of cost, Sessions Case No.31 of 2017 pending on the file of learned Additional Sessions Judge, Kalyan arising out of C.R. No. I-417 of 2016 is quashed. Petition is allowed in terms of prayer clause (a).

10. It is made clear that, if the Petitioner fails to deposit the aforesaid amount within stipulated period, the present Petition shall stand

automatically revived and in that event, the trial of Sessions Case No.31 of 2017 will proceed expeditiously.

Stand over to 21st April, 2023. To be listed on board under the caption *“for reporting compliance”*.

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)