

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2009 OF 2023**

Swapnil Subhash Wani

... Petitioner

V/s.

ABC And Anr.

... Respondents

Mr. Viral Babar for Petitioner.

Mr. Paras Yadav for Respondent No.1.

Mrs. G. P. Mulekar, APP for Respondent No.2-State.

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 23rd JUNE, 2023.****PC. :**

1. By the present Petition, Petitioner, original accused in R.C.C. No. 374 of 2023 pending on the file of learned Judicial Magistrate First Class, 1st Court, Kalyan, District Thane arising out of C.R. No. I-104 of 2023, registered with Khadakapada Police Station, Kalyan, District Thane, under Sections 376 (2) (n), 509, 328 and 420 of the Indian Penal Code, has prayed for quashing of said crime with the consent of Respondent No.1, the informant.

2. Learned Advocate for Petitioner submitted that, Petitioner and Respondent No.1 have resolved all their differences and disputes and Respondent No.1 has agreed to give her consent to quash the crime in question. He submitted that, the relations between Petitioner and

Respondent No.1 were consensual in nature, as can be deciphered from the perusal of First Information Report. That, when the said relations were strained and Respondent No.1 realized that she has been financially duped by the Petitioner, she lodged present crime.

3. Learned Advocate for Respondent No.1 has tendered across the bar her Affidavit dated 23rd June, 2023, duly affirmed before a Notary Public. In para No.4 thereof, the Respondent No.1 has stated that, Petitioner repaid the money advanced by her and due to the intervention of their common friends, family members and well wishers, she and Petitioner have settled the matter amicably to focus on their individual future lives. In para No.5 thereof, she has in unequivocal terms given unconditional consent for quashing of R.C.C. No. 374 of 2023 arising out of C.R. No. I-104 of 2023.

4. Perusal of First Information Report indicates that, Respondent No.1 is a married woman, however her relations with her husband were not cordial as her husband used to have a doubt on her. She subsequently opened an account on social media i.e. Facebook. She got acquainted with the Petitioner on the said social media. Petitioner painted a rosy picture of fantastic profit in some business enterprise and induced the Respondent No.1 to part with an amount of Rs.18,55,000/-.

It appears that, by giving false assurance the Petitioner also established forcible sexual relations with the Respondent No.1. That, when Respondent No.1 realized that, she is not being paid with the requisite

percentage of profits as promised by the Petitioner and she has been cheated by him, present crime is registered.

It appears that, relations between Petitioner and Respondent No.1 were consensual in nature between two adult persons. After their relations got soured due to dispute arising out of financial transactions, the Respondent No.1 has lodged present crime.

5. In view of the above, as we expressed our opinion for quashing of said R.C.C. No. 374 of 2023 arising out of C.R. No. I-104 of 2023, learned Advocate for Petitioner on instructions from wife and father of Petitioner who are personally present in the Court submitted that, the Petitioner will pay a cost of Rs.75,000/- to Central Police Welfare Fund within a period of one week from the date of uploading of the present Order. The said statement is accepted as an undertaking given to this Court.

6. We direct the Petitioner to pay a cost of Rs.75,000/- to Central Police Welfare Fund within a period of one week 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.75,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

7. In view of above and subject to the payment of cost, R.C.C. No. 374 of 2023 pending on the file of learned Judicial Magistrate First Class, 1st Court, Kalyan, District Thane arising out of C.R. No. I-104 of 2023, registered with Khadakapada Police Station, Kalyan, District Thane is quashed.

8. It is made clear that, if the cost is not paid within stipulated period as mentioned above, this Petition shall stand revived automatically and in that event, the trial Court will proceed with the hearing of the said R.C.C. No. 374 of 2023 expeditiously.

9. List the Petition on 14th July, 2023 under caption 'for reporting compliance' of present Order.

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)