

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 874 OF 2022**

Naresh Anant Jadhav

... Applicant

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Anil D. Joshi i/b. Mr. Atulkumar Ojha for Applicant.

Mr. S. S. Hulke, APP for Respondent-State.

Ms. Sandhya A. Mailgar i/b. Mr. Anand R. Pandey for Respondent No.2.

**CORAM : A.S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 14th JUNE, 2023.****PC. :**

1. By the present Application under Section 482 of the Criminal Procedure Code, Applicant/Original accused has prayed for quashing of R.C.C.No.1734 of 2020 pending on the file of Judicial Magistrate First Class, Thane, arising out of C.R.No.385 of 2020 dated 20th August 2020 registered with Shil-Daighar Police Station, District Thane, under Sections 376, 420, 504 and 506 of the Indian Penal Code 1860 (IPC), with the consent of Respondent No.2, the victim.

2. Learned Advocate for Applicant submitted that, Applicant and Respondent No.2 were having an affair and the alleged act as contemplated under Section 376 of IPC were consensual relations between two adult persons. He submitted that, when the relations got strained, the present crime has been registered by Respondent No.2 out of frustration. He submitted that Applicant and Respondent No.2 have settled their

differences and dispute amicably and Respondent No.2 has given her consent for quashing of the crime in question.

3. Advocate Ms. Mailgar appearing for Respondent No.2 submitted that Respondent No.2 has affirmed an Affidavit dated 22nd July 2022 and additional Affidavit dated 13th October 2022 and has given her 'No Objection' for quashing of the crime in question.

Respondent No.2 is personally present in the Court and through her Advocate reiterated the contents of her Affidavits dated 22nd July 2022 and 13th October 2022 and her 'No Objection' for quashing of the crime in question.

4. Perusal of First Information Report indicates that, Respondent No.2 was well acquainted with the Applicant as they were studying in the same school. Subsequently Respondent No.2 got married and is a mother of two daughters. Respondent No.2 took divorce from her earlier husband and was staying separately with her daughters. Due to an event conducted by the ex-students of the said school, Respondent No.2 again came into contact with Applicant. Applicant by extending promise to marry with Respondent No.2 allegedly established forcible physical relations with her. It is also alleged that after sale of certain immovable property, Respondent No.2 got Rs.10,00,000/-. As the Applicant had given her promise to marry, he further persuaded her to part with the said amount to him and subsequently defalcated it. Subsequently their relations got soured and out of frustration, Respondent No.2 has lodged present crime.

5. Minute perusal of First Information Report indicates that relations between the Applicant and Respondent No.2 were consensual in nature.

Respondent No.2 in her Affidavit has stated that, when her relation with Applicant got strained due to issue of defalcation of Rs.10,00,000/- by the Applicant, she lodged present crime. That, she has now received the said money back and has settled the matter amicably resolving all the disputes and differences between them. She, on oath, has given her 'No Objection' for quashing the crime in question.

6. In view of the above, we are inclined to quash R.C.C.No.1734 of 2020 pending on the file of Judicial Magistrate First Class, Thane, arising out of C.R.No.385 of 2020 dated 20th August 2020 registered with Shil-Daighar Police Station, District Thane.

As we expressed our opinion for quashing of said R.C.C.No.1734 of 2020 pending on the file of Judicial Magistrate First Class, Thane, learned Advocate for Applicant, on instructions, submitted that the Applicant will pay a cost of Rs.1,00,000/- to Central Police Welfare Fund within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

7. We direct the Applicant to pay a cost of Rs.1,00,000/- to Central Police Welfare Fund within a period of two weeks 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 :- UTIB00000060

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

8. In view of above and subject to the payment of cost, R.C.C.No.1734 of 2020 pending on the file of Judicial Magistrate First Class, Thane, arising out of C.R.No.385 of 2020 dated 20th August 2020 registered with Shil-Daighar Police Station, District Thane is quashed.

9. It is made clear that, if the cost is not paid within stipulated period as mentioned above, this Application shall stand revived automatically and in that event, the Trial Court will proceed with the said R.C.C.No.1734 of 2020 expeditiously.

10. List the Application on 5th July 2023 under caption 'for reporting compliance' of present Order.

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)