

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2031 OF 2023**

Jainam Rajesh Kothari

.. Petitioner

V/s.

State of Maharashtra & Anr.

.. Respondents

Mr. Vipin Dubey for Petitioner

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

Mr. Satish R. Yadav for Respondent No.2

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 26th JUNE 2023.****P. C. :**

1. Petitioner, accused in C.R. No. 331 of 2022 registered with Kandivali (West) Police Station, Mumbai dated 23.05.2023 under Sections 376, 504, 506 of I.P.C., has filed the present Petition under Article 226 of the Constitution of India for quashing the said crime with the consent of Respondent No.2, the victim.

2. Learned Advocate for the Petitioner submitted that, there was love affair between Petitioner and Respondent No.2. The relations between the Petitioner and Respondent No.2 as contemplated under Section 376 of I.P.C. were consensual in nature. He submitted that, when their relations were strained, Respondent No.2 filed present crime. He submitted that, Petitioner and

Respondent No.2 have resolved their disputes and differences and Respondent No.2 has consented for quashing the crime in question.

3. Learned Advocate for Respondent No.2 submitted that, Respondent No.2 has filed an Affidavit dated 13.06.2023 and has consented for quashing of the crime in question.

Respondent No.2 is personally present in Court and through her Advocate reiterates the contents of her Affidavit dated 13.06.2023 and her 'no objection' for quashing of the crime in question.

4. Perusal of F.I.R. indicates that, Petitioner and Respondent No.2 were acquainted with each other. Their acquaintance, blossomed into an affair. Petitioner subsequently gave proposal of marriage to Respondent No.2. It is alleged that, on 24.07.2022 the Petitioner persuaded Respondent No.2 to accompany him to visit a guest house at Kandivali, there he forced her to drink beer and established physical relations with the Respondent No.2. Subsequent thereto atleast on five occasions, Petitioner by giving promise to marry, established physical relations with Respondent No.2. After their relations got soured, Petitioner threatened Respondent No.2 that, he would inform their relations to her parents and also abused her. Respondent No.2 thereafter lodged the present crime. It appears that, the relations between the Petitioner and Respondent No.2 were consensual relations between two adult

persons and when their relations got soured, Respondent No.2 has lodged the present crime.

In her affidavit dated 13.06.2023, Respondent No.2 has stated that, due to misunderstanding between her and Petitioner and so also due to lack of knowledge, she has lodged present crime. That, due to intervention of respectable members of her family, the dispute between her and Petitioner has been amicably settled and she has no grievance against the Petitioner. That, she does not want to proceed with the present crime lodged by her. In paragraph No. 7 thereof, Respondent No.2 has given her 'no objection' for quashing of the crime in question as the matter has been amicably settled between them.

5. In view of above, we are inclined to quash the F.I.R. No. 331 of 2023 registered with Kandivali Police Station, Kandivali (W), Mumbai.

6. As we expressed our opinion for quashing of said F.I.R. No. 331 of 2023 registered with Kandivali Police Station, Kandivali (West), Mumbai, learned Advocate for Petitioner on instructions submitted that, Petitioner will 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 this order. The said statement is accepted as an undertaking given to this Court.

7. We direct Petitioner 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 :- UTIB0000060

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

8. In view of the above, subject to payment of cost, Petition is allowed in terms of prayer clause (a).

9. It is made clear that, if the Petitioner fails to deposit the said cost within stipulated period as mentioned above, this Petition shall automatically revived and in that event, the investigating agency will complete the investigation of the crime in question expeditiously.

10. List the Petition on 17th July 2023 under caption 'for reporting compliance' of present Order.

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)