



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 5171 OF 2021

Padam Kalu Singh

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Popat R. Rathod for Petitioner.

Mr. S.S. Hulke, A.P.P. for Respondent No.1-State.

Mr. Vishal A.Patil for Respondent No.2.

PSI Mr.Mengal, Aarey Police Station, Mumbai is present.

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

DATE : 9th August 2023.

P.C. :

1. Petitioner, accused in Sessions Case No. 288 of 2018 pending on the file of Additional Sessions Judge, 13th Court, Dindoshi, Borivali, Mumbai, arising out of CR No.147 of 2018, dated 26th June 2018, registered with Aarey Police Station, Mumbai, under Sections 420, 376, 377, 494, 504, 506 & 354B of Indian Penal Code, has invoked jurisdiction of this Court under Article 226 of the Constitution of India and under Section 482 of Criminal Procedure Code for quashing of the said case, with the consent of Respondent No.2, the victim.

2. Learned Advocate for Petitioner submitted that, the Petitioner and Respondent No.2 were in Live-in-Relationship and after their relations

got strained, she has lodged present crime. That, now the Petitioner and Respondent No.2 have settled their differences and disputes and Respondent No.2 has given her consent for quashing of the present case. He therefore prayed that, the present Petition may be allowed.

3. Learned Advocate for Respondent No.2 submitted that, the Respondent No.2 has filed an affidavit dated 11th April 2022 duly affirmed before a Notary Public. In para Nos.3 & 5 thereof, Respondent No.2 has stated that, she has now no complaint or grudge against the Petitioner and has no objection for quashing of present case. She has given her consent for quashing of the case.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her affidavit dated 11th April 2022 and her 'no objection' for quashing of the crime in question.

4. Perusal of First Information Report indicates that, the Respondent No.2 was a married woman and from her wedlock she had given birth to a child. Subsequently, her husband deserted her and went to his native place. Respondent No.2 therefore started residing with her mother. The Petitioner and Respondent No.2 were working in the same Company and got acquainted with each other. Subsequently, the Petitioner by giving promise to marry, established physical relations with the Respondent No.2. He also assured the Respondent No.2 that, after marriage he will give his name, as father of her child begotten from earlier wedlock and will take care

of her child. At the request of Petitioner, the Respondent No.2 started residing separately from her mother with the Petitioner. Their relations were continued from 2012 till 2016. In the year 2016, the Respondent No.2 came to know that, the Petitioner is a married person and has two children from his wedlock. Their relations were initially got strained due to the said fact, however the Petitioner explained the circumstances to the Respondent No.2 and again assured her to perform marriage with her. The Petitioner and Respondent No.2 subsequently continued their relations upto April 2018. It is alleged that, the Petitioner started assaulting the Respondent No.2 prior to June 2018. Therefore the Respondent No.2 again went to the place of her mother for residing. That, the Petitioner by extending threat that, he will circulate their intimate and/or objectionable photos and videos on social media, further exploited Respondent No.2. In this brief premise, present crime is registered.

It is thus apparent that, the Petitioner and Respondent No.2 were having live-in-relationship and Respondent No.2 was a consenting party to the alleged act, as contemplated under Section 376 of I.P.C.. Their relations were consensual in nature between two adult persons.

5. Learned A.P.P, on instructions from the Investigating Officer, submitted that, as far as the seized mobile of the Petitioner is concerned, the Forensic Science Laboratory has given a report to the effect that, no incriminating material was found in the said mobile phone, as alleged by the

Respondent No.2.

6. In view thereof, we are inclined to quash the said criminal case i.e. Sessions Case No. 288 of 2018 pending on the file of Additional Sessions Judge, 13th Court, Dindoshi, Borivali, Mumbai, arising out of CR No.147 of 2018, dated 26th June 2018, registered with Aarey Police Station, Mumbai, under Sections 420, 376, 377, 494, 504, 506 & 354B of Indian Penal Code.

7. As we expressed our opinion for quashing of said criminal case i.e. Sessions Case No. 288 of 2018 pending on the file of Additional Sessions Judge, 13th Court, Dindoshi, Borivali, Mumbai, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.1,00,000/- to Tata Memorial Centre (Tata Memorial Hospital), Dr.Ernest Borges Marg, Parel, Mumbai – 400 012 within a period of two weeks from the date of uploading of Order. The said statement is accepted as an undertaking given to this Court.

8. We direct the Petitioner to pay a cost of Rs.1,00,000/- to Tata Memorial Centre (Tata Memorial Hospital), Dr.Ernest Borges Marg, Parel, Mumbai – 400 012 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.1,00,000/- 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, Application is allowed in terms of prayer clauses (a) & (b).

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 Sessions Case No. 288 of 2018 expeditiously.

11. List the Petition on board on 4th September 2023, under caption 'for reporting compliance' of present Order.

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]