

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO.2359 OF 2023**

Shahid Ismail Khan

.. Petitioner

V/s.

State of Maharashtra & Anr.

.. Respondents

Mr. Milan Desai i/by T.R.Patel for Petitioner.

Mr. Ajay Patil, APP For Respondent No.1-State.

Mr. Pankaj Kamble for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 13th JULY 2023.****P C. :**

1. Petitioner, accused in C.R.No. 217 of 2023 dated 14.02.2023 registered with Malwani Police Station, Mumbai under Section 376(2)(n) of I.P.C. has filed present Petition under Article 226 of the Constitution of India and under Section 482 of Cr.P.C. for quashing of the said crime, with the consent of Respondent No.2, the victim.

2. Learned Advocate for Petitioner submitted that, due to intervention of the family members, friends and relatives in the vicinity, Petitioner and Respondent No.2 have settled the matter amicably and the Respondent No.2 has given her no objection for

quashing the crime in question. He submitted that, Respondent No.2 has filed her Affidavit dated 09.06.2023 duly affirmed before the Assistant Registrar of this Court in that behalf.

3. Learned Advocate for Respondent No.2 conceded to the facts stated by the learned Advocate for Petitioner.

Respondent No.2 is personally present in Court and through her Advocate reiterates the contents of the Affidavit dated 09.06.2023 and her 'no objection' for quashing of the crime in question.

4. Perusal of the First Information Report indicates that, the respondent No.2 was a married women, however, she was staying separately from her husband due to disputes with him. That, in the year 2021, she started a General Store in Malwani area of Malad, Mumbai. She got acquainted with the Petitioner and their friendship blossomed into love affair. That, the Petitioner by extending promise of marriage, established physical relations with her. 15 days prior to lodgment of present crime, the informant got knowledge that, the marriage of Petitioner was being arranged with other girl and therefore he has committed cheating with her.

It appears to us that, the relations between Petitioner and Respondent No.2 were consensual in nature between two adult persons and when their relations got soured, Respondent No.2 out of frustration, has lodged the present crime.

5. In her Affidavit dated 09.06.2023, Respondent No.2 has stated that with the timely intervention of the friends and family members, she has realised that, under wrong and misconceived perception and out of misunderstanding and miscommunication, she has lodged the present crime against the Petitioner. That, she on her own accord and free will has amicably and cordially resolved all disputes and grievances with the Petitioner.

In paragraph No. 9 thereof, she has stated that, she does not wish to pursue the present case any further and has no objection for quashing of the C.R. No. 217 registered with Malwani Police Station, Mumbai.

6. In view of the above, we are inclined to quash C.R.No. 217 of 2023 registered with Malwani Police Station.

7. As we expressed our opinion for quashing of said C.R. No. 217 of 2023 registered with Malwani Police Station, Mumbai, learned Advocate for Petitioner on instructions submitted that, Petitioner will pay a cost of Rs.75,000/- 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.

8. We direct Petitioner to pay a cost of Rs.75,000/- 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

Petitioner to deposit the said cost of Rs.75,000/- within the stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

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

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

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

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)