

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 873 OF 2021

Jitendrasingh Rameshsingh Parmar ...Applicant
V/s.
The State Of Maharashtra And Ors ... Respondents

Mr. Prashant Aher a/w. Mr. Vipul Patil i/b. Prashant Gavait for the Applicant.

Mr. Ajay Patil, APP for the Respondent No.1-State.

Ms. Ekta Chaurasia for the Respondent No.2.

CORAM : NITIN W. SAMBRE &
RAJESH .S. PATIL, JJ.

DATED : 23rd AUGUST, 2023

PC.:

1. This Court has already passed reasoned order delivered on 22nd August, 2023 recording consent of Respondent No.2-Complainant for quashing the F.I.R. The matter today is kept for further clarification as to whether in the matter of an offences punishable under Section 376 of the Indian Penal Code, 1860, the offence can be quashed by consent.

2. We are apprised of the law laid down by the Apex Court in the matter of *Sonu Subhash Kumar v/s. State of Uttar Pradesh & Anr*, delivered in Criminal Appeal No. 233 of 2021 decided on 1st March, 2021, so also *Pramod Suryabhan Pawar V/s.*

State of Maharashtra and Ors, delivered in Criminal Appeal No. 1165 of 2019 decided on 21st August, 2019.

3. In both these cases Apex Court was of the view that in case, if relationship is consequential, the offences can be permitted to be quashed by consent.

4. In the case in hand, though we cannot prima facie infer that the relationship between the Applicant and Respondent-Complainant was consensual however, in the consent affidavit she has specifically stated that she had no intention to lodge offense punishable under Section 376 of the Indian Penal Code. In this background, it can be said that the relationship between the Applicant and the Respondent-Complainant if any, was consensual. That being so, the prayer for quashing by consent stands allowed in terms of prayer clause (b), subject to cost of Rs. 25,000/- (Twenty Five Thousands).

5. The cost shall be paid to the Janseva Foundation to be deposited in the Bank of Maharashtra Account No.20076764639, IFSC Code MAHB0000102, within four weeks from the date of receipt of the order and a receipt to that effect be placed on record within a week thereafter, failing which the order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Petitioner in accordance with law.

6. Writ Petition is disposed of in the aforesaid terms.

(RAJESH S. PATIL, J.)

(NITIN W. SAMBRE)