

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2151 OF 2023****Mahesh Harishchandra Mohite**

... Petitioner

V/s.**The State of Maharashtra & Anr.**

... Respondents

Mr. Shirish Gupte, Senior Advocate i/b. Mr. Sachin R. Pawar for Petitioner.

Mr. Ajay Patil, A.P.P. for Respondent No.1-State.

Mr. Prasad B. Kulkarni for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 12th July 2023.****P.C. :**

1. Petitioner, accused in RCC No. 309 of 2023 pending on the file of Judicial Magistrate First Class, Panvel, arising out of CR No. 210 of 2022 registered Khandeshwar Police Station, Navi Mumbai has filed present Petition under Article 226 of the Constitution of India and under Section 482 of Criminal Procedure Code for quashing of the said crime, with the consent of Respondent No.2.

2. It is to be noted here that, the Respondent No.2 had also lodged crime No. 0565 of 2021 with Jodbhavi Peth Police Station, Solapur under Sections 376, 377, 417, 504, 506, 507 of the Indian Penal Code, which after completion of investigation was culminated into RCC No. 116 of 2022. This

Court by an Order of even date has quashed the said proceedings by consent of Respondent No.2.

Present crime i.e. CR No. 210 of 2022 is lodged by the Respondent No.2 subsequent to the lodging of the earlier crime.

3. It is alleged herein that, the Petitioner by informing the Respondent No.2 that, he has given divorce to his earlier wife pretended to have performed marriage with her and without making payment of the agreed amount committed the act as contemplated under Sections 406 & 420 of I.P.C. against the Respondent No.2.

4. Mr.Gupte, learned senior counsel appearing for Petitioner submitted that, the Petitioner and Respondent No.2 have executed 'Consent Terms' dated 12th July 2023 and in para No.9 (r) (i) the Respondent No.2 has agreed and has given her 'no objection' for quashing of the crime in-question.

4.1 The said Consent Terms dated 12th July 2023 are accompanied with the Affidavit of Respondent No.2 dated 12th July 2023. In para No.10 thereof, the Respondent No.2 has admitted that, she has settled the matter amicably with the Petitioner and has given her 'no objection to quash RCC No. 309 of 2023 arising out of CR No. 210 of 2022 registered with Khandeshwar Police Station, Navi Mumbai.

4.2 Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of Consent Terms dated 12th July 2023 and her 'no objection' in quashing the crime in-question.

5. Mr.Gupte, learned senior counsel for Petitioner, on instructions, submitted that, in furtherance of Consent Terms executed between the parties, the Petitioner has today handed over Demand Draft(s) amounting to Rs.92,00,000/- to the Respondent No.2, who is personally present in the Court. Respondent No.2 admits that, she has received the said Demand Draft(s).

6. In view of the above, we are inclined to quash RCC No. 309 of 2023 pending on the file of Judicial Magistrate First Class, Panvel, arising out of CR No. 210 of 2022 registered Khandeshwar Police Station, Navi Mumbai.

6.1 As we expressed our opinion for quashing of said RCC No. 309 of 2023 pending on the file of Judicial Magistrate First Class, Panvel, learned senior counsel for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.25,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

6.2 We direct the Petitioner to pay a cost of Rs.25,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

7. In view of above and subject to payment of cost, Petition is allowed in terms of prayer Clause (b).

8. 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 RCC No. 309 of 2023 expeditiously.

9. List the Application on 21st August 2023 under caption 'for reporting compliance' of present Order.

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

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]

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