

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE SIDE JURISDICTION****CRIMINAL APPLICATION NO. 1027 OF 2021**

1. Akshat Jinesh Doshi Age-21 yrs,
Occ-Student Residing At-
Flat No.202,Second Floor,
Girnar Tower, Sheth
Motishah Lane, Mazgaon,
Mumbai-10. }Applicant/Accused.

Versus

1. Ms. ABC Age- 18 yrs,
Occ-Student R/at-Room No.
18/19, E Block, Nirav Mension,
2nd Floor, Bhangwadi, Kalbadevi,
Mumbai-02. }
2. The State of Maharashtra
(At the instance of The Senior
Police Inspector, L.T. Marg Police
Station, Mumbai In
C.R. No. 308/2019) }Respondents

Ms. Vikram R. Sutaria for the Applicant.

Mr. M.K. Kocharekar, i/b Mr. Mithilesh Mishra, for the Respondent

No. 1

Mr. K.V. Saste, APP for the Respondent No.2/State.

(Both Applicant and Respondent No. 2 are present in Court).

**CORAM : SUNIL B. SHUKRE AND
M.M. SATHAYE, JJ.**

Date : 19th APRIL, 2023.

JUDGMENT (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives service for Respondent No. 2/State. Learned Counsel for Respondent No.1/complainant waives service. Taken up for final hearing with consent of parties.

2. By this Application filed under section 482 of the Criminal Procedure Code, the Applicant / accused is seeking to quash by consent, a crime registered under C.R. No. 308/2019 registered against him with L. T. Marg Police Station, Mumbai for offences punishable under Sections 354-D, 506 and 509 of Indian Penal Code and 67(A) & (B) of Information Technology Act and section 12, 14, & 15 of the Protection of Children from Sexual Offences Act, 2012

("POCSO" for short) and consequent proceedings bearing Sp. Case (POCSO) No. 747 of 2019.

3. Perusal of FIR dated 9th October 2019 shows that it is alleged by Respondent No.1 / complainant that at the relevant time, she was a student of 12th standard. It is stated that on 27.09.2019, when she was studying at house, she received a video from an unknown person on her instagram account, showing pornographic clip with the complainant's face morphed / superimposed on the female appearing in the video. It is stated that the said unknown person, who had sent video, threatened to make the said video viral and insisted that if she wants to avoid it, she should open a snapchat account and contact a particular another snapchat account holder and upload her nude videos there. It is stated that she was frightened and in order to avoid getting the pornographic video clip viral, she prepared about 5 to 10 second long nude video of herself and shared it as instructed. It is stated that when she tried to avoid further communication with the said unknown person, he used bad language. It is further stated that ultimately she took her elder sister in confidence and informed her about the incidence, who in turn,

informed their mother. Thereafter, father of the respondent No.1 was contacted and the impugned FIR was lodged against the unknown person having a particular snapchat and instagram account. According to the impugned FIR, the Respondent No.1 was 17 years old at the relevant time.

4. It appears from the record that thereafter, during the course of investigation, the Applicant was arrested and produced before the Court. Today the Applicant is about 23 years of age.

5. The Respondent No.1 has filed two affidavits in this matter. Perused the first affidavit of Respondent No.1 affirmed on 09.07.2022, when she is stated to be of 18 years i.e. major and second consent affidavit affirmed on 19.04.2023, when she is stated to be 19 years of age. It is stated by Respondent No.1 in these affidavits that when the Applicant was arrested, at the time of bail application itself, she along with her family members had given no-objection and consent, in the peculiar facts and circumstances of the case. It is stated that she was of tender age and considering the future as well as her growing age, she does not want to proceed with

a criminal case. She has stated that she intends to pursue her masters degree and in order to avoid her future and career being hampered by present criminal proceedings, she has decided to put an end to these proceedings amicably. It is further stated that she and her family members have sat and discussed the matter with utmost maturity and they have decided to put an end to the present case amicably and by consent of each other. Ultimately, she has stated that she does not wish to proceed with the criminal case and wishes to withdraw the same unconditionally. She has also given no objection if the criminal proceedings against the Applicant are quashed.

6. The Applicant (boy) and his father, the Respondent No. 1 (girl)/ complainant and her both parents are personally present today in the Court and are identified by their respective advocates. Learned counsels for both the sides jointly state that the matter is amicably settled in view of young age of both the parties and Respondent No. 1 / complainant (who is major now) has filed consent affidavit. On our inquiry with Respondent No. 1 and her both the parents, they stated that they have settled the matter

voluntarily, without any pressure or coercion in order to have a clean slate so far as future life and career of Respondent No. 1 is not ruined.

7. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this Application. It is confirmed by the APP that Applicant has no antecedents.

8. From the above facts and circumstances, it appears that the underlying dispute from which the alleged crime has arisen, is private dispute and it is the result of adolescent yet oddly tender age of both, the boy and the girl involved. Respondent No. 1 (a girl, who is major now) has urged before us that she is willing to pursue her masters' degree does not want the present criminal case to hamper her career and future in any manner. Her parents have confirmed that she is major now and they also wish that this criminal proceedings should not remain pending, so that her future life and career can be pursued peacefully.

9. It is also a fact that at the relevant time, even the Applicant

was young and he also has his future and career at stake. The Applicant has shown remorse. He has urged before us that he was a college going boy of tender age when the incident happened and he has already learned his lesson.

10. In the aforesaid facts and circumstances, this Court is of the considered view that if the parties are settling amicably, both of them should be given a chance in their respective life to start afresh and pursue their career and life with a clean slate. This Court must not do something which may lead to hampering their progress in life. That apart, this is a case of unwilling witnesses including prosecutrix and, therefore, even if we let the trial happen, it would be an exercise in futility.

11. In the net result, we pass following order:

- (i) Writ Application is allowed.
- (ii) Impugned crime registered under C.R. No. 308/2019 registered against him with L. T. Marg Police Station, Mumbai and consequent proceedings bearing Sp. Case (POCSO) No. 747 of 2019 pending before the concerned Special Court, are

quashed and set aside.

- (iii) This is subject to condition precedent that Applicant shall deposit an amount of Rs. 50,000/- within 4 weeks from today, in the account of MSWC Asha Sadan, Bank Name: Union Bank of India, Branch Name: Null Bazar Branch, Account No: 318702010029260, IFSC Code: UBIN0531871
- (iv) It is clarified that if the amount is not deposited as stipulated above, by any of the parties, this Order will be cancelled automatically and the matter will be restored to file of this Court for further directions.
- (v) Rule is made absolute in the above terms. No order as to costs.
- (vi) Stand over by 4 weeks, to be placed before Registrar Judicial (II) for reporting compliance. Ld. Registrar to close the case, if this Order is complied.

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)