

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2480 OF 2023**

Chetan Dattatray Waghmare & Ors.

... Petitioners

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Sanjeev Kadam i/b. Mr. Bhalchandra S. Shinde for Petitioners.

Mrs.G.P. Mulekar, A.P.P. for Respondent No.1-State.

Mr. Prashant P. Raul for Respondent No.2.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 24th July 2023.****P.C. :**

1. Petitioners/accused in CR No. 0119 of 2023, dated 3rd June 2023 registered with Talegaon MIDC Police Station, Pimpri-Chinchwad, under Sections 376, 323, 504, 506 of Indian Penal Code (*for short, "I.P.C."*) have filed present Petition under Article 226 of the Constitution of India for quashing of the said crime, with consent of Respondent No.2.

2. Mr.Kadam, learned counsel for Petitioners submitted that, the allegations under Section 376 of I.P.C. are against the Petitioner No.1. It is alleged that, the Petitioner Nos.2 & 3 threatened the Respondent No.2 for not persuading Petitioner No.1 to perform marriage with him. He submitted that, the Petitioner No.1 and Respondent No.2 have now settled the matter

amicably and therefore present crime may be quashed.

3. Learned Advocate for Respondent No.2 tendered across the bar her Affidavit dated 14th July 2023 duly affirmed before the Assistant Registrar of this Court. In para No.3 thereof, the Respondent No.2 has given her no objection for quashing the crime in question. It is stated in the affidavit that, the Respondent No.2 has no grievance against the Petitioners and she has filed the said affidavit without any pressure or undue influence.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 14th July 2023 and her 'no objection' for quashing the crime in question.

4. Perusal of F.I.R. indicates that, the Petitioner No.1 and Respondent No.2 were working in the same establishment at Pune. Their friendship was subsequently blossomed into an affair. That, by extending promise to marry, Petitioner No.1 established physical relations with Respondent No.2. On 4th May 2023 the Respondent No.2 came to know that, the Petitioner No.1 has performed marriage with some other girl. The Respondent No.2 therefore gave phone call to Petitioner No.2. It is alleged that, the Petitioner No.2 threatened Respondent No.2 of serious consequences, if she persuades Petitioner No.1 to perform marriage with her. It is also alleged that, the Petitioner No.3, who is father of Petitioner Nos.1 & 2 also threatened the Respondent No.2 of serious consequences. In this brief premise, present crime is registered.

5. Perusal of First Information Report clearly indicates that, on the date of lodgment of the crime, the Respondent No.2 was aged about 29 years. The Petitioner No.1 by extending promise to marry with Respondent No.2 established physical relations with her. That, the relations between Petitioner No.1 and Respondent No.2 were consensual in nature between two adult persons. After their relations got soured, the Respondent No.2 lodged present crime.

6. In view thereof, we are inclined to quash the said crime i.e. CR No. 0119 of 2023, dated 3rd June 2023 registered with Talegaon MIDC Police Station, Pimpri-Chinchwad, District Pune.

7. As we expressed our opinion for quashing of said CR No. 0119 of 2023, dated 3rd June 2023 registered with Talegaon MIDC Police Station, Pimpri-Chinchwad, learned Advocate for Petitioners on instructions submitted that, the Petitioner will pay a cost of Rs.25,000/- each totaling to Rs.75,000/- 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 Petitioners to pay a cost of Rs.75,000/- 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

Petitioners to deposit the said cost of Rs.75,000/- 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, Petition is allowed in terms of prayer clause (a).

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 Investigating Officer shall complete the investigation of the present crime expeditiously.

11. List the Petition on board on 31st August 2023, under the caption 'for reporting compliance' of present Order.

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]