

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 1087 OF 2021**

Siddhesh Chandrakant Nandagaonkar

... Applicant

V/s.

Roshna Atmaram Jadhav & Anr.

... Respondents

Dr.Samarth Shrikant Karmarkar a/w. Ms.Reshma Apte i/b. Karmarkar And Associates for Applicant.

Mr.Rahul Tiwari a/w. Mr.Mahesh Ghuge for Respondent No.1.

Mr.S.S. Hulke, A.P.P. for Respondent No.2-State.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.**

DATE : 1st August 2023.

P.C. :

1. Leave to amend to correct CR number in prayer Clauses is granted. Amendment be carried out forthwith.

2. Applicant, accused in Sessions Case No. 224 of 2021 pending on the file of Additional Sessions Judge, Kalyan, arising out of CR No. 41 of 2020, dated 23rd January 2020, registered with Manpada Police Station, Dombivli, under Sections 376(2)(n), 417, 506 of Indian Penal Code, has filed present application under Section 482 of Criminal Procedure Code for quashing of the said case, with the consent of Respondent No.1, the victim.

3. Mr.Karmarkar, learned counsel for Applicant submitted that, the Applicant and Respondent No.1 were having an affair and when their

relations were strained, the Respondent No.1 has lodged present crime. He submitted that, the Applicant and Respondent No.1 have now settled their disputes and differences and the Respondent No.1 has given her consent for quashing of the said case.

4. Learned Advocate for Respondent No.1 submitted that, the Respondent No.1 has affirmed an affidavit dated 18th November 2021 before a Notary Public. In para Nos.12 & 14 thereof, she has given her no objection for quashing of the present case. It is stated in the affidavit that, she has now resolved her disputes and differences with the Applicant and have settled the dispute with him permanently.

Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her affidavit dated 18th November 2021 and her 'no objection' for quashing of the crime in question.

5. Perusal of First Information Report indicates that, the Applicant and Respondent No.1 came into contact through a social media. They subsequently started meeting with each other and became good friends. It is alleged that, the Applicant by giving promise to marry with the Respondent No.1, forcibly committed sexual assault on Respondent No.1. In May 2019 the Applicant invited Respondent No.1 to his house at village Sagarli, Dombivli (East). In the month of December 2019 also the Applicant took the Respondent No.1 in a lodge in MIDC Dombivli and established physical relations with her. The Respondent No.1 thereafter asked the Applicant about

his promise to marry, to which he resiled. In this brief premise, the present crime is registered.

Perusal of First Information Report indicates that, the relations between the Applicant and Respondent No.1 were consensual in nature and when the Applicant resiled from his promise to marry, the Respondent No.1 out of frustration and anger lodged the present crime.

6. In view thereof, we are inclined to quash the said criminal case i.e. Sessions Case No. 224 of 2021 pending on the file of Additional Sessions Judge, Kalyan, arising out of CR No. 41 of 2020, dated 23rd January 2020, registered with Manpada Police Station, Dombivli.

7. As we expressed our opinion for quashing of said criminal case i.e. Sessions Case No. 224 of 2021 pending on the file of Additional Sessions Judge, Kalyan, learned Advocate for Applicant on instructions submitted that, the Applicant will pay a cost of Rs.1,00,000/- 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 Applicant to pay a cost of Rs.1,00,000/- 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

Applicant to deposit the said cost of Rs.1,00,000/- 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, Application 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 Application shall stand revived automatically and in that event, the trial Court will proceed with the said Sessions Case No. 224 of 2021 expeditiously.

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

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]

OMKAR
SHIVAHAR
KUMBHAKARN

Digitally signed
by OMKAR
SHIVAHAR
KUMBHAKARN
Date: 2023.08.05
11:10:40 +0530