

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1049 OF 2023**

Vibhav Vivek Kulshreshtha

...Petitioner

V/s.

The State Of Maharashtra And Anr.

...Respondents

Ms. Amruta Patil-Kavale a/w Mr. Abhishek Satpute h/f Mr. Pankaj Kavale
for Petitioner.

Mr. Ajay Patil, A.P.P. for the Respondent-State.

Ms. Laxmi Raman for Respondent No.2.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.**

DATE : 23rd MARCH, 2023

P.C.:-

. By the present Petition, Petitioner/Accused has prayed for quashing of F.I.R.No.579 of 2022 registered with Andheri Police Station, Mumbai, for offences under Sections 376(2)(n) and 420 of Indian Penal Code by consent of Respondent No.2,victim.

2. Learned Advocate for Petitioner submitted that, it is the case of Respondent No.2 that, by giving false promise to marry, the Petitioner established physical relations with her. Perusal of First Information Report (*for short 'FIR'*) would indicate that, the physical relations between Petitioner and Respondent No.2 were consensual in nature between two

adult persons. She therefore prayed that, the present crime may be quashed.

3. Learned Advocate Ms. Laxmi Raman for Respondent No.2, victim, on instructions submitted that, Respondent No.2 is not desirous to pursue present crime further and has consented for quashing of the same. She tendered across the bar an Affidavit dated 09.03.2023 affirmed by Respondent No.2. In Paragraph No.7 of the said Affidavit, the Respondent No.2 has given her unconditional consent to quash the present crime. The said Affidavit is taken on record.

4. Perusal of FIR and other record indicates that, the relations between Petitioner and Respondent No.2 were consensual in nature. In view thereof we are inclined to quash the said FIR lodged by Respondent No.2 against Petitioner.

5. Learned Advocate for Petitioner on instructions submitted that, as the Court is now inclined to quash the said FIR, the Petitioner will pay a cost of Rs.20,000/- to the Central Police Welfare Fund, Mumbai within a period of two weeks from the date of uploading of present Order on the official website of the High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

6. We direct the Petitioner to pay cost of Rs.20,000/- to the Central Police Welfare Fund, Mumbai.

The details of the bank account for payment of cost are as under :

Bank Name : Axis Bank Ltd.
Branch Name : Worli, Mumbai [MH], Mumbai - 400 025.
Account Name : Central Police Welfare Fund
Account No. : 914010029005759
IFSC Code : UTIB00000060

Petitioner to deposit the said cost of Rs.20,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

7. Subject to payment of cost, First Information Report No.579 of 2022 registered with Andheri Police Station, Mumbai filed by Respondent No.2 is quashed. Petition is allowed in terms of prayer Clause (b).

8. It is made clear that, if the Petitioner fails to deposit the aforesaid amount within stipulated period, the present Petition shall stand automatically revived and in that event, the Investigating Agency will be at liberty to proceed with the investigation of said crime expeditiously.

9. Stand over to 27th April 2023.

To be listed on board under the caption "*for reporting compliance*".

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)