

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 5090 OF 2021**

Amit Anandrao Malgunde

...Petitioner

V/s.

The State of Maharashtra & Anr.

...Respondents

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SANTOSH
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Mr.K.S. Patil i/b Mr.Ranjeet Patil, for the Petitioner.

Mr.Ajay Patil, APP for the Respondent-State.

Mr.Prashant S. Hagare, for Respondent No.2.

Mr.Deepak Solankhe, API, Nirmal Nagar Police Station.

**CORAM : A. S. GADKARI AND
SHIVKUMAR DIGE, JJ.****DATE : 20th JUNE 2023****P.C.**

1. Leave to amend to incorporate challenge to Sessions Case No.52/2023 pending on the file of the Additional Sessions Judge, Kolhapur in the pleading and prayer clauses of Petition granted.

Amendment to be carried out forthwith and in any event, during the course of the day.

2. By the present Petition, the Petitioner, original accused in Sessions Case No.52/2003 pending on the file of Additional Sessions Judge, Kolhapur arising out of the C.R. No.469 of 2021

registered with Sahapuri Police Station, Kolhapur under Section 376, 504 and 506 of the Indian Penal Code has prayed for quashing of the Sessions Case No.52 of 2023 with the consent of Respondent No.2, the informant/victim.

3. Mr.Patil, the learned counsel for the Petitioner submitted that the relations between Petitioner and Respondent No.2 were consensual in nature. That, when their relations got soured, the Respondent No.2 filed the present Crime. He submitted that, the Petitioner and Respondent No.2 have now resolved their differences and disputes and Respondent No.2 has given her consent for quashing the crime in question.

4. Mr.Prashant S. Hagare, the learned Advocate for Respondent No.2 submitted that, the Respondent No.2 has filed an Affidavit dated 12th December 2022 and has given her 'no objection' for quashing of the crime in question. In paragraph No.10 thereof, she has stated that she lodged the said crime due to misunderstanding. In paragraph Nos.12 and 13, Respondent No.2 has stated that, she informed the fact of relations with Petitioner and lodgement of crime to her family members and her family members suggested her to continue with her decision for withdrawing all the allegations against the Petitioner. That, she is ready and willing to forgive all the allegations against the Petitioner. That, she does not

have any grudge against the Petitioner.

In paragraph No.15 thereof, she has stated that, she is withdrawing all the allegations against the Petitioner and the FIR in question be quashed.

5. Perusal of the F.I.R. indicates that, the Respondent No.2 was a married woman. The Petitioner is also a married person. By extending promise to marry with the Respondent No.2, Petitioner established physical relations with her at various places in the vicinity of Kolhapur city. It appears that, the Petitioner did not give divorce to his wife and continued to have relations with Respondent No.2. On account of some disputes his relations with Respondent No.2 got soured and the Respondent No.2 thereafter filed present crime out of frustration and grudge.

6. In view of the above, we are inclined to quash Sessions Case No.52 of 2003 pending on the file of the learned Additional Sessions Judge, Kolhapur arising out of the C.R. No.649 of 2021 registered with Sahapuri Police Station, Kolhapur.

7. As we expressed our opinion for quashing of said Sessions Case No.52 of 2023 pending on the file of the Additional Sessions Judge, Kolhapur, the learned counsel for the Petitioner, on instructions, submitted that the Petitioner will pay a cost of Rs.75,000/- to Central Police Welfare Fund within a period of two

weeks from today. The said statement is accepted as an undertaking given to this Court.

8. We direct the Applicant to pay a cost of Rs.75,000/- to Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

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

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai (M.H.), Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number :- 914010029005759

IFSC Code :- UTIB00000060

Applicant to deposit the said cost of Rs.75,000/- within stipulated period as noted above and submit the 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 the event, the Sessions Court at Kolhapur will proceed with the said Sessions Case No.52 of 2023

expeditiously.

11. List the Application on 28st July 2023 under caption 'for reporting compliance' of present Order.

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

(SHIVKUMAR DIGE, J.)

(A.S. GADKARI, J.)