

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4412 OF 2022**

1. Aditya G. Seolikar	
2. Gajanan P. Seolikar	
3. Madhuri G. Seolikar	...Petitioners
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Vivek Salunkhe i/b Mr. Prashant More for the Petitioners.
Ms M.M. Deshmukh, APP for the Respondent/State.
Mr. Wajed Khan a/w. Mr. Rahim Khan for Respondent No.2.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**

DATE : 9 NOVEMBER, 2023.

PC:-

1. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No. 226 of 2022 dated 30 May 2022 registered at Chatushrungi Police Station, Pune for the offences punishable under Sections 376, 376(2) (n), 417 read with 34 of the Indian Penal Code.

2. The quashing of FIR is sought on the ground that there has been an amicable settlement between the parties and respondent No.2/prosecutrix is no longer desirous of prosecuting the case in question.

3. The learned counsel for the petitioners and the learned counsel for the respondent No.2/prosecutrix jointly submit that

the petitioner No.1 and respondent No.2 were in relationship for more than 8 years and were going to marry each other. It is submitted that the alleged physical relationship between the petitioner No.1 and respondent No.2 was consensual, however, due to some misunderstanding the report was lodged.

4. The respondent No.2, who is identified by her Advocate Mr. Wajed Khan, is personally present in the Court. She confirms the contents of the consent affidavit dated 2 November 2023 filed by her, wherein she has stated that she has no objection if the criminal case in question against the petitioners is quashed.

5. In ***Kapil Gupta v/s. State of NCT of Delhi and Anr.***¹, the Apex Court has reiterated that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved, would lead to proving the charge for the offence charged with. The Court has also to take into consideration whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

6. We have perused the FIR. Perusal of the FIR reveals that the petitioner No.1 and the respondent No.2 both adults were

1 Criminal Appeal No. 1217 of 2022

in relationship and were going to marry each other. The allegations made in the FIR even if accepted in their entirety reveals that the physical relationship between the petitioner No. 1 and respondent No.2 was consensual. Considering the overall facts and circumstances, in our view, the petition deserves to be allowed. The Petition is thus allowed in terms of prayer clause (A), subject to payment of costs of Rs.1,00,000 /- (Rupees One Lakh) by the petitioners to the ***“Pasaydan Balvikas Foundation bearing Account No.3775403155, Central Bank of India, IFSC Code:CBIN0285070”*** within ten weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings shall stand recalled.

7. The Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)