

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6746 OF 2021**

Mahesh Harishchandra Mohite

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Shirish Gupte, Senior Advocate i/b. Mr. Karansingh Rajput for Petitioner.

Mr. Ajay Patil, A.P.P. for Respondent No.1-State.

Mr. Prasad B. Kulkarni for Respondent No.2.

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

DATE : 12th July 2023.

P.C. :

1. Petitioner, original accused in RCC No. 116 of 2022 pending on the file of learned Judicial Magistrate First Class, Solapur, arising out of CR No. 565 of 2021 registered with Jodbhavi Peth Police Station, Solapur under Sections 376, 377, 417, 504, 506 & 507 of the Indian Penal Code, has filed present Petition under Article 226 of the Constitution of India and under Section 482 of Criminal Procedure Code for quashing of the said crime, with consent of Respondent No.2.

2. Mr.Gupte, learned senior counsel for the Petitioner submitted that, the Petitioner and Respondent No.2 have settled their disputes and differences amicably and have executed 'Consent Terms' dated 12th July

2023. In para No.9(r)(i), the Respondent No.2 has agreed and has given her 'no objection' for allowing the present Petition and for quashing of RCC No. 116 of 2022. The said Consent Terms are accompanied with Affidavit of Respondent No.2 dated 12th July 2023 duly affirmed before a Notary Public. In para No.10 of the said Affidavit, the Respondent No.2 has admitted the fact of amicable settlement between the parties and has given her 'no objection' for quashing of the crime in-question.

2.1 Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of Consent Terms dated 12th July 2023 and Affidavit dated 12th July 2023 and her 'no objection' in quashing RCC No. 116 of 2022 pending on the file of Judicial Magistrate First Class, Solapur.

3. Perusal of First Information Report indicates that, the Petitioner by extending promise to marry with Respondent No.2 established physical relations with her. That, subsequently he took Respondent No.2 at Gaondevi Temple, Vashi, Navi Mumbai and pretended to performed marriage with her. Out of their relations, the Respondent No.2 delivered a baby girl. It is alleged that, subsequently Petitioner started avoiding Respondent No.2 and thereafter present crime has been registered.

3.1 Perusal of F.I.R. and other documents further indicates that, the relations between the Petitioner and Respondent No.2 were consensual in nature. The Respondent No.2 was also a married woman when she entered

into relations with the Petitioner. That, when their relations got soured, the Respondent No.2 has lodged present crime.

4. In view of the above, we are inclined to quash RCC No. 116 of 2022 pending on the file of learned Judicial Magistrate First Class, Solapur, arising out of CR No. 565 of 2021 registered with Jodbhavi Peth Police Station, Solapur.

4.1 As we expressed our opinion for quashing of said RCC No. 116 of 2022 pending on the file of learned Judicial Magistrate First Class, Solapur, learned senior counsel for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.50,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from today. The said statement is accepted as an undertaking given to this Court.

4.2 We direct the Petitioner to pay a cost of Rs.50,000/- to Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

5. In view of above and subject to payment of cost, Petition is allowed in terms of prayer Clause (a).

6. It is needless to observe that, the Petitioner will adhere to the terms, conditions and covenants mentioned in the Consent Terms dated 12th July 2023.

7. 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 trial Court will proceed with the said RCC No. 116 of 2022 expeditiously.

8. List the Application on 21st August 2023 under caption 'for reporting compliance' of present Order.

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

[SHIVKUMAR DIGE, J.]

[A.S. GADKARI, J.]

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