

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APL) NO. 1204 OF 2022**

Omkar Jitendra Sabale

.....Applicant

Vs.

State Of Maharashtra & Ors.

.....Respondents

Mr. Ram Mani Upadhyay for the Applicant.

Ms. M.M. Deshmukh, APP for the Respondent Nos.1 and 2.

Mr. Vinod C. Singh for Respondent No.3-Complainant.

Mr. L.J. Sonawane, H.C., Naupada Police Station, Thane present.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.****DATE : 3rd APRIL, 2023.****PC:-**

Leave to amend to incorporate prayer for quashing of R.C.C. No.3751 of 2022 pending on the file of Judicial Magistrate First Class, 6th Court Thane. Amendment be carried out forthwith and in any event, during the course of the day.

2) By the present Application filed under Section 482 of the Code of Criminal Procedure the Applicant, accused has prayed for quashing of R.C.C. No.3751 of 2022 pending on the file of Judicial Magistrate First Class, 6th Court, Thane arising out of C.R. No.0243 of 2022 dated 11th September, 2022 registered with Naupada Police Station, Thane under Section 376 of the Indian Penal Code, by consent of Respondent No.3.

3) Mr. Upadhyay, learned Advocate for the Applicant submitted that, the Applicant and Respondent No.3 have settled the matter amicably out of Court. He submitted that, the relations between the Applicant and Respondent No.3 were consensual in nature which can be discerned from a plain reading of the first information report itself.

4) Learned Advocate for the Respondent No.3 submitted that, the Respondent No.3 has initially tendered an affidavit dated 26th September, 2022 in the Court of District and Sessions Court, Thane in Criminal Bail Application No.3535 of 2022, giving her no objection for granting anticipatory bail to the Applicant. That, due to the said Affidavit, the Applicant was granted anticipatory bail by the learned Additional Sessions Judge, Thane. He submitted that, the Respondent No.3 has also affirmed an Affidavit dated 18th November, 2022 before the Assistant Registrar, of this Court which is on record.

Respondent No.3 is personally present in the Court and through her Advocate, gave her no objection for quashing the said R.C.C. No.3751 of 2022 pending on the file of Judicial Magistrate First Class, 6th Court, Thane arising out of C.R. No.0243 of 2022 dated 11th September, 2022 registered with Naupada Police Station, Thane.

5) Perusal of FIR would indicate that, the Applicant and Respondent No.3 came in contact on a social site and their friendship was

subsequently blossomed into an affair. They started meeting with each other. Respondent No.3 had been to Madgaon along with the Applicant on 7th September, 2022. It appears to us that, the relations between the Applicant and the Respondent No.3 were of consensual nature between two adult persons.

6) Respondent No.3 has affirmed an Affidavit dated 18th November, 2022 and in paragraph Nos.3 and 6 thereof she has stated that, she has settled all the disputes with the Applicant due to mediation and intervention of family members and well wishers of both the sides. She has given consent for quashing of FIR No.243 of 2022 registered with Naupada Police Station, Thane.

7) In view of the above, we are inclined to quash R.C.C. No.3751 of 2022 pending on the file of Judicial Magistrate First Class, 6th Court, Thane arising out of C.R. No.0243 of 2022 dated 11th September, 2022 registered with Naupada Police Station, Thane.

As we expressed our opinion for quashing of said R.C.C. No.3751 of 2022 pending on the file of Judicial Magistrate First Class, 6th Court Thane, learned Advocate for Applicant on instructions submitted that, the Applicant will pay a cost of Rs.50,000/- 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.

We direct the Applicant to pay a cost of Rs.50,000/- 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 :- UTIB0000060

8) In view of above, Application is allowed in terms of prayer clause (a).

9) 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 R.C.C. No.3751 of 2022 expeditiously.

10) List the Application on 3rd May 2023 under caption '*for reporting compliance*' of present Order.

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

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)