

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 1535 OF 2023**

Santosh Jwalaprasad Prajapati

...Petitioner

Versus

State Of Maharashtra And Anr.

...Respondents

Mr.Sumangala Yadav Advocate for Petitioner.

Mrs. M. M. Deshmukh, APP for Respondent No.1-State.

Ms. Asma Khan Advocate for Respondent No.2.

PI. Shivalkar attached to Dadar Police Station, Mumbai is present.

**CORAM : A. S. GADKARI AND
PRAKASH D.NAIK, JJ.****DATE : 28th APRIL 2023.**

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P.C.:-

1. Leave to amend to incorporate number of Sessions Case in prayer clause so also body of Petition is granted. Amendment be carried out forthwith.
2. Petitioner, Original Accused in C.R. No.880 of 2021 registered with Dadar Police Station, Mumbai, dated 15th November 2021 under Sections 376 and 420 of the Indian Penal Code, culminated into Sessions Case No.336 of 2022 pending on the file of learned Sessions Court at Mumbai, has filed present Petition for quashing of the said Sessions Case by consent of Respondent No.2, the victim.
3. Learned Advocate for Petitioner submitted that, the relations between Petitioner and Respondent No.2 were consensual in nature. That, the

Petitioner and Respondent No.2 have settled the matter amicably and therefore present crime may be quashed.

4. Learned Advocate for Respondent No.2 tendered across the bar an Affidavit dated 22nd February 2023 of Respondent No.2, duly affirmed before a Notary Public. She submitted that, due to intervention of the relatives of both the parties, present case is settled amicably between them and the Respondent No.2 is not desirous for pursuing it further.

Respondent No.2 is personally present in the Court and through her Advocate reiterated the contents of her Affidavit dated 22nd February 2023 and her 'no objection' for quashing the crime in question.

5. Perusal of First Information Report and other material available in the form of statements of witnesses indicate that, the Petitioner and Respondent No.2 were working in the same Company. They initially became friends and subsequently their friendship was blossomed into a love affair. Petitioner by giving promise to marry, established physical relations with Respondent No.2. From November 2017 till November 2021 the Respondent No.2 accompanied Petitioner willingly at various places, wherein the Petitioner established physical relations with her. Subsequently, Respondent No.2 realized that, the Petitioner is no more interested in her and also not responded to her phone calls. In this brief premise, Respondent No.2 has lodged present crime.

6. The Respondent No.2 in her Affidavit dated 22nd February 2023 has stated that, she and Petitioner both were used to each other's company and

the involvement in each other's like. When the Petitioner's marriage was fixed, she also decided to move on in her life and started for looking her marriage as well. Subsequently, she realized that, she cannot live without Petitioner. She informed the said fact to the family members of Petitioner. However, it was too late as the marriage of the Petitioner was fixed to some other girl. That, in the rage of anger and willingness to rekindle with the Petitioner, out of frustration she lodged crime. That, due to the efforts and mediation by common friends and members of the society, she decided not to pursue present case further and to withdraw all the allegations against the Petitioner. In paragraph No.7 of the said Affidavit, she has admitted that, her relationship with Petitioner was consensual and he never forced upon her in the said relationship. In paragraph No.9 thereof, she has given her 'no objection' for quashing of the present crime.

7. As we are inclined to quash the Sessions Case No.336 of 2022 pending on the file of learned Sessions Court at Mumbai, the learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.50,000/- 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.

8. We direct the Petitioner to pay cost of Rs. 50,000/- 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 [M.H.], Mumbai- 400 025.
Account Name : Central Police Welfare Fund
Account No. : 914010029005759
IFSC Code : UTIB00000060

9. Petitioner to deposit the said cost of Rs.50,000/- within stipulated period as noted above and submit the receipt of the same in the Registry of this Court.

10. Subject to payment of cost, the proceedings i.e. Sessions Case No.336 of 2022 pending on the file of learned Sessions Court at Mumbai, arising out of C.R. No.880 of 2021 registered with Dadar Police Station, Mumbai is quashed.

Petition is allowed in terms of prayer clause (a).

11. It is made clear that, if the Petitioner fails to deposit the said cost within stipulated period, present Petition shall stand automatically revived and in that event, the trial Court will proceed with the hearing of said case expeditiously.

12. Place the present Petition on board on 16th June 2023 under the caption "*for reporting compliance*".

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)