



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 101 OF 2021

Sameer Ramakant Mane ..Appellant
VS.
The State of Maharashtra and anr. ..Respondents

Mr. Nitin H. Sejpal a/w Ms. Pooja N. Sejpal, for the appellant.
Mr. S. H. Yadav, APP for the State.
Ms. Manisha Devkar, for Respondent No.2.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 08, 2024

ORAL JUDGMENT :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel Ms.Manisha Devkar appointed to represent the respondent no.2 through Legal Aid Services Authority.
2. This is an appeal for quashing and setting aside the impugned order dated 15/02/2020 passed by the trial Court rejecting the application of the appellant for his discharge for the offence punishable under sections 376, 313, 420, 506 of the Indian Penal Code, 1860 and under section 3(1) (12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "the Atrocities

Act”) in connection with the C.R. No. 158 of 2014 registered on 10/04/2014 with Dindoshi police station.

3. The appellant is being tried in Sessions Case No. 142 of 2014. The Misc Application (Exhibit 3) was filed under section 227 of the Code of Criminal Procedure (“CrPC”, for short) praying for his discharge for the offence punishable under the aforesaid provisions. By the impugned order dated 15/02/2020, the trial Court rejected the application for discharge. The present appeal is filed under section 14A of the Atrocities Act challenging the order passed by the trial Court.

4. In view of the mandatory provisions of section 15A of the Atrocities Act, notice was issued to the respondent no.2. Respondent no.2 requested for legal assistance. Accordingly, Ms.Manisha Devkar was requested to appear on her behalf. Respondent No.2 is personally present in Court.

5. Learned APP opposed the appeal and submitted that the order passed by the trial Court cannot be faulted on the touchstone of the principles laid down by the Supreme Court in the matter of discharge under section 227 of the CrPC. It

is submitted that the offence alleged is serious, hence the accused must face the trial.

6. Learned counsel for the respondent no.2 identified the complainant. On instructions of the respondent no.2 who is personally present in the Court learned counsel submits that the complainant is no more interested in prosecuting the criminal proceedings. It is submitted that the complainant has no objection if the present appeal is allowed and the appellant discharged. It is submitted that the complainant has during the pendency of the proceedings settled in matrimony. The complainant wants to move on with life and expressed concern that continuation of the proceedings will be detrimental to her as it may disrupt her married life. She says that the statements made are voluntary and there is no pressure exerted on her.

7. Learned APP vehemently opposed the appeal. He submitted that having set the criminal law in motion, considering the seriousness of the accusations when one of the offence alleged is under the atrocities Act, the appellant must face the trial as this is not a case fit for discharge.

8. I have therefore considered the appeal on merits as

well. With the assistance of the learned counsel, I have carefully perused the FIR dated 10/04/2014. It is the case of the complainant that some time in the year 2010, she met the applicant as they were residing in the same society. The appellant and the complainant became good friends. Later, the appellant proposed marriage. The complainant informed him that she belongs to the Scheduled Caste community and the appellant's parents may not accept such proposal. The appellant assured the complainant that he would prevail upon his parents to accept such proposal. Thereafter, a love relationship developed between the appellant and the complainant. The complainant alleged that sometime in 2010, the appellant called her to his residence and on the pretext of marriage, the appellant established sexual physical relation with the complainant which constitutes an offence under the aforesaid sections. Thereafter from time to time such relation continued. It is on 08/04/2014 when the appellant informed the complainant that his family members are insisting that he marry another girl of their choice, which wish the appellant expressed a desire to respect, that the complainant realised she has

been cheated. In the facts and circumstances of the present case, I am of the considered opinion that having regard to the materials on record, even if taken at the face value, do not satisfy the ingredients of the offence alleged. There were some intervening circumstances because of which the appellant could not keep his word. The materials on record do not establish that from the inception the consent by the victim is a result of a false promise to marry as such there is no consent. The offence of rape therefore cannot be said to be made out.

9. The appeal is accordingly allowed.

10. The impugned order dated 15/02/2020 is set aside.

11. The Misc.Application (Exhibit 3) in Sessions Case No. 142 of 2014 before the trial Court for discharge is allowed.

12. The bail bonds stand cancelled.

13. I appreciate the valuable assistance rendered by Ms. Manisha Devkar, learned Advocate, who appeared on behalf of the respondent no.2 in this proceeding.

(M. S. KARNIK, J.)