



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

WRIT PETITION NO. 975 OF 2020

PANKAJ RAJNIKANT BHATT ..PETITIONER
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Adv. Dr. Uday Warunjikar a/w Adv. Swapnil R. Chopade for
the Petitioner.

Adv. S.J. Kantharia for Respondent No.2.

Ms. Sangeeta D. Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 29, 2024

ORAL JUDGMENT:

- 1.** Learned counsel for the petitioner seeks leave to amend, to correct the surname of the petitioner. Leave as sought for is granted. Amendment to be carried out forthwith.
- 2.** Heard learned counsel for the petitioner, learned counsel for respondent No.2 and learned APP for the State.
- 3.** The First Information Report (FIR) was registered at the instance of respondent No.2 bearing C.R. No. 87 of 2016 with Charkop Police Station, Mumbai for the offence punishable under Sections 376, 354-C, 384, 506(1) and

509 of the Indian Penal Code. The criminal case is being tried before the Sessions Court, Dindoshi, vide Sessions Case no. 293 of 2016. The application below Exhibit 3 was made by the petitioner before the trial Court for discharge under Section 227 of the Code of Criminal Procedure. By the impugned order dated 17/10/2019, the application came to be rejected.

4. The prosecution's case in brief is that sometime in the year 2011 when the petitioner went to the house of the complainant to play with her kids, the petitioner clicked some photographs which he utilised to pressurise the complainant/ respondent No.2 into indulging in the acts with the petitioner which constitutes offence under the aforesaid Sections. Respondent No.2 is a married lady and was running a beauty parlour business.

5. During the course of the hearing of this petition, parties have filed consent terms, which are taken on record and marked 'X' for identification. The consent terms record that the complainant has no objection if this Court discharges the petitioner in view of the settlement and understanding that has been arrived at between the parties.

The petitioner as well as respondent No.2 are personally present in the Court and say that they have duly signed the consent terms. They are identified by their respective advocates representing them. Respondent No.2 through her advocate submitted that the present petition be allowed.

6. Though a settlement is pleaded, considering the nature of the allegations, I find it appropriate to examine the present petition on merits. This is not a case of a false promise to marry. The complainant was married. In respect of the relationship, which commenced in the year 2011, the FIR was filed on 30/03/2016. The complaint appears to be an outcome of some financial transactions between the parties which led to the strained relations. In any case, it is submitted by the learned counsel for the petitioner that a perusal of the FIR would reveal that the relationship between the petitioner and respondent No.2 was consensual in nature and only on account of the financial dispute that arose between them, the complaint came to be filed. I am inclined to agree with the submission of learned counsel for the petitioner though there was opposition by the learned APP on merits. There is a delay in registering the FIR.

Furthermore, on reading the FIR, it is evident that the relationship between the parties was consensual in nature. The complaint obviously is an outcome of the monetary disputes that arose between the parties. In this view of the matter, continuation of the prosecution will nothing but be an abuse of the process of the Court. The allegations in the complaint and the materials on record even if taken at its face value do not disclose the existence of all the components constituting the alleged offence. Therefore, in the facts of this case, the petition deserves to be allowed and the same is allowed in terms of the prayer clause (b).

7. The writ petition stands disposed of in the above terms.

8. Shri Warunjikar, on instructions, graciously submitted that the petitioner would voluntarily donate a sum of Rs.15,000/- to the **Maharashtra Police Welfare Fund (A/c. No. 914010029005759 and IFSC No. UTIB0000060)** within 2 weeks from today.

(M. S. KARNIK, J.)