

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

CRIMINAL WRIT PETITION NO. 1787 OF 2024

Umesh Uttam Sawant Petitioner
v/s.

The State of Maharashtra and anr. Respondents

Mr. B.G. Tangsali for the Petitioner.
Mrs. M.M. Deshmukh, APP for the State.
Mr. Roshan Hule for Respondent No.2.
Mr. Shaikh, API, Khadakpada Police Station, Kalyan.

**CORAM: A.S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATED : 07th MAY, 2024.

P. C. :-

1) By the present Petition under Article 226 of the Constitution of India read with Section 482 of Criminal Procedure Code, the Petitioner, accused in Sessions Case No.363/2019 pending on the file of Additional Sessions Judge, Kalyan arising out of C.R.No.I-79/2018 registered with Khadakpada Police Station, Kalyan, District Thane, for the offences punishable under Sections 376(2)(n) and 417 of the Indian Penal Code, with the consent of Respondent No.2, the victim.

2) Mr. Tangsali, learned Advocate for the Petitioner submitted that, the Petitioner and Respondent No.2 have resolved their disputes and differences amicably and Respondent No.2 has now given her consent for quashing of the said case. He therefore submitted that, the Petition may be

allowed by quashing the said case with consent of Respondent No.2.

3) Learned Advocate for Respondent No.2 tendered across the bar Affidavit dated 07th May, 2024 duly affirmed before a Notary Public. It is stated therein that, the Respondent No.2 is now happily married and living her matrimonial life peacefully. That, she has no more interest in pursuing the present case. She has stated that, in the interest of justice, the said case may be quashed.

3.1) Respondent No.2 is personally present before the Court and through her Advocate reiterates the contents of her Affidavit dated 07th May, 2024 and her 'no objection' for quashing of the crime in question.

4) Perusal of record indicates that, the Petitioner and Respondent No.2 were knowing each other. Their acquaintance was subsequently blossomed into an affair and by giving a promise to marry to the Respondent No.2, Petitioner established physical relations with her initially at her residence and subsequently he continued with the said relations. The said relations were continued from the year 2011 till April, 2015. In April, 2015 the Petitioner resiled from his promise to marry with the Respondent No.2 and thereafter the Respondent No.2 has filed present crime.

4.1) Perusal of the F.I.R. and other record clearly indicates that, the Respondent No.2 was major when she entered in relations with the Petitioner and the relations between the Petitioner and Respondent No.2

were consensual in nature. In view thereof and after taking into consideration the fact that, the Respondent No.2 is happily married and living her matrimonial life peacefully and the fact that, she has affirmed the said Affidavit dated 07th May 2024, we are inclined to quash C.R.No.I-79/2018 registered with Khadakpada Police Station, Thane.

5) As we expressed our opinion for quashing of C.R.No.I-79/2018 registered with Khadakpada Police Station, Thane, learned Advocate for the Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.50,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the Order. The said statement is accepted as an undertaking given to this Court.

6) We therefore direct the Petitioner to pay a cost of Rs.50,000/- to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of present Order on the Official Website of High Court, Bombay.

6.1) Details of the bank account for payment of cost are as under :-

Account Name	:- Advocates Association of Western India Generation Next.
Account Number	:- 000110110007807.
Bank Number	:- Bank of India.
Branch Name	:- Mumbai Main.
IFSC Code	:- BKID0000001.

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

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

8) 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 hearing of Sessions Case No.363/2019 expeditiously.

9) List the Petition on board on 13th June, 2024 under the caption 'for reporting compliance' of present Order.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)