

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

WRIT PETITION NO.4734 OF 2018

Yogesh Dilip Jadhav

...Petitioner

Versus

The State of Maharashtra and Ors.

...Respondents

....

Mr. Balwant Salunkhe for the Petitioner.

Mr. Ajay Patil, APP for Respondent No.1-State.

Mr. J.A. Madane for Respondent No.3.

Mr. A.T. Shirke, PSI, Antop Hill Police Station, present.

CORAM : SMT. ANUJA PRABHUDESSAI &

N.R. BORKAR, JJ.

DATED: 8th JANUARY, 2024.

P.C.:-

1. The Petitioner seeks to quash Crime No.191 of 2018 registered with Antop Hill Police Station, Mumbai, for the offences punishable under Section 376(2)(n), 323, 504 and 506 of the IPC and Section 66E of the Information Technology Act, 2000 and Sessions Case No.866 of 2019 pending before the 39th Sessions Judge at Sessions Court, Greater Mumbai arising from the said crime.

2. Learned counsel for the Petitioner and Respondent No.3 state that parties have settled the dispute amicably. Learned counsel for

MEGHA
SHREEDHAR
PARAB

Digitally signed by
MEGHA
SHREEDHAR
PARAB
Date: 2024.01.11
14:53:02 +0530

Respondent No.3 has placed on record affidavit filed by Respondent No.3 wherein she has given no objection for quashing the FIR.

3. We are conscious of the fact that offence under Section 376 of the IPC is an offence against society and the same cannot be quashed with consent. We have therefore gone through the FIR and the other records to ascertain whether the facts narrated in the FIR as well as the other material on record disclose essential ingredient of 'rape' within Section 375 of the IPC.

4. The records reveal that the Petitioner herein is the nephew of Respondent No.3. The facts narrated in the FIR and the other records indicate that the Petitioner and Respondent No.3, both adults have indulged in sexual relationship multiple times since the year 2014. The relationship between the Petitioner and Respondent No.3 is absolutely consensual. It is stated that the Mobile phone of the Petitioner was seized and that the same does not contain any obscene video or photographs of Respondent No.3. Hence, prima facie the FIR and other material on record do not disclose offence of 'rape' within the meaning of Section 376 of the IPC. As far as other offences are concerned, the same are personal in nature and since the parties have settled the dispute amicably, it would

not be in the interest of justice to continue with the criminal prosecution.

5. Under the circumstances, the Petition is allowed. The Crime No.191 of 2018 registered with Antop Hill Police Station, Mumbai and Sessions Case No.866 of 2019 pending before the 39th Sessions Judge at Sessions Court, Greater Mumbai arising from the said crime is hereby quashed subject to payment of cost of Rs.40,000/- by Respondent No.3 to Maharashtra Central Police Welfare Fund, A/c. No.No.914010029005759, IFSC Code-UTIB00000060 within a period of 7 days.

6. Stand over to **15/01/2024** for compliance.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI,J.)