

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

CRIMINAL WRIT PETITION NO. 3836 OF 2023

Naveen Madanlal Dogra

.... Petitioner

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. D.K. Singh for the Petitioner.

Ms. M.M. Deshmukh, APP for the State.

Mr. Ashutosh Singh for the Respondent No.2.

Respondent No.2 present in Court.

Mr. Pravin Ahere, API, Waliv Police Station, present.

**CORAM: SMT. ANUJA PRABHUDESSAI AND
N.R. BORKAR, JJ.**

DATED : 04th JANUARY, 2024.

P. C. :-

. By this Petition filed under Article 226 of the Constitution of India, the Petitioner seeks to quash the C.R.No.I-1392/2021 registered with Waliv Police Station, Mira-Bhayander, Vasai-Virar and consequent Sessions Case No.7/2022 pending before the learned Additional Sessions Judge, Vasai for the offences punishable under sections 376, 506 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by the Respondent No.2. Respondent No.2 has alleged that the Petitioner

herein had sexual relationship with her under the promise of marriage. The Respondent No.2 had also alleged that the Petitioner had taken from her money as well as gold ornaments from time to time and had threatened her when she questioned him about the marriage.

3. A perusal of the FIR reveals that the Respondent No.2 is a divorcee with a child from the 1st marriage. She got acquainted with the Petitioner in the year 2010. They were in physical relationship since the year 2018. The FIR reveals that the Petitioner as well as the Respondent No.2, both adults, had indulged in consensual sexual relationship. Under the circumstances and in view of the decisions of the Apex Court in *Shambhu Kharwar v/s. State of Uttar Pradesh and anr.* in *Criminal Appeal No.1231/2022* and in *Pramod Suryabhan Pawar v/s. State of Maharashtra* in *Criminal Appeal No.1165/2019*, in our considered view, the offence of rape within the meaning of Section 375 is not made out.

4. As regards the other offence, the Respondent No.2 has filed her affidavit stating that she has settled the dispute amicably without any pressure or coercion and that she does not wish to proceed against the Petitioner. The Respondent No.2 is present before the Court. She has

been identified by her advocate. She has reiterated before us that she has settled the dispute amicably and does not wish to proceed against the Petitioner. The dispute relating to offence under section 506 is personal in nature and the settlement is voluntary and genuine. Hence, proceeding with the criminal proceedings will be an exercise in futility.

5. Hence, the Petition is allowed in terms of prayer clause (a). C.R.No.I-1392/2021 registered with Waliv Police Station, Mira-Bhayander, Vasai-Virar and consequent Sessions Case No.7/2022 pending before the learned Additional Sessions Judge, Vasai, stands quashed subject to payment of costs of Rs.40,000/- to be paid by the Petitioner to Maharashtra Central Police Welfare Fund, within a period of 07 days from the date of this order.

6. Stand over to **11/01/2024** for compliance.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

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