

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.387 OF 2024**

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|----|--------------------------|----------------|
| 1. | Sunil Pawar | |
| 2. | Swapnil Pawar | ...Petitioners |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Miss A.B.C. | ...Respondents |

Mr. Prashant Thombre for the Petitioner/Applicant.
Ms S.E. Phad, APP for the Respondent.
Ms Mansi Pawar for Respondent No.2.

**CORAM : PRAKASH D. NAIK &
N. R. BORKAR, JJ.
DATE : 08.03.2024.**

PC:-

1. The petitioners challenge the first information report (FIR) dated 13.09.2022 registered with Koparkhairne Police Station, Navi Mumbai vide F.I.R. No. 401 of 2022 for the offences under Sections 376, 313, 315, 341 read with 34 of the IPC. The FIR has been registered at the instance of respondent No.2.
2. It is alleged that the complainant was acquainted with the petitioner No.1. They fell in love with each other. There was physical relationship between them on several occasions. The victim was taken to several places where she was subjected to sexual relationship. The victim was pregnant. The pregnancy of the victim was forcibly terminated.
3. Learned advocate for the petitioners submits that the differences are resolved and the complainant has no objection for quashing the FIR. The relationship was consensual. There is

no evidence to establish that the pregnancy was terminated forcibly or that the complainant was administered some substance to terminate the pregnancy.

4. Learned advocate for respondent No.2 submitted that respondent No.2 is consenting for quashing the FIR. She has to lead her life. She is planning to marry and settle down in life.

5. Respondent No.2 is present in the Court. She has expressed her consent for quashing the FIR registered with Koparkhairne Police Station vide C.R. No. 401 of 2022. Respondent No.2 has filed the affidavit sworn by her. In the affidavit, it is stated that there was friendship between the complainant and the petitioner No.1. On account of physical and emotional attraction, they both engaged in physical activity. She got pregnant. She has lodged the FIR on account of misunderstanding against the petitioners. Her family wishes to settle her in her hometown to secure her future and they are looking marriage prospects for her in their society. In the event FIR continues, then it will create hurdles in the future prospect of her marriage. She does not wish to proceed with her complaint and has no objection, if the FIR is quashed. To secure the ends of justice and to live peacefully, she has decided to take back her complaint against the petitioners. The affidavit is taken on record.

6. Learned APP submitted that the respondent No.2/complainant had alleged that there was forceful termination of pregnancy. Apart from Section 376 of the IPC,

the offences were also registered under Sections 313 and 315 of the IPC.

7. It appears that pursuant to the registration of FIR, there is no further investigation. It was submitted that pregnancy was terminated in hospital. However, there is no cogent evidence to substantiate the charge of forceful termination of pregnancy.

8. Petitioner No.2 is the brother of petitioner No.1. The role attributed to petitioner No.2 is that he had wrongfully restrained the respondent No.2/complainant along with petitioner No.1.

9. Considering the aforesaid circumstances and also looking to the fact that the relationship appears to be of consensual nature, the impugned FIR can be quashed.

ORDER

A] Writ Petition is allowed.

B] The impugned FIR dated 13.09.2022 registered with Koparkhairne Police Station, Navi Mumbai vide FIR No.401 of 2022 is quashed and set aside, subject to payment of costs.

C] The petitioners shall pay the costs of Rs.15,000/- each to Advocates' Association of Western India Generation Next within a period of three weeks from today and submit the receipt of the same in the Registry

of this Court. The details of the bank account for payment of costs are as under:

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

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)