

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 678 OF 2024**

Prashant Sham Gaikwad

... Petitioner

**V/s.**

The State of Maharashtra &amp; Anr.

... Respondents

Mr. Raju Suryawanshi for Petitioner.

Mr. Vinit A. Kulkarni, A.P.P. for Respondent No.1-State.

Mr. Ajinkya V. Taskar for Respondent No.2.

**CORAM : A. S. GADKARI AND  
DR. NEELA GOKHALE, JJ.****DATE : 2<sup>nd</sup> July 2024.****P.C. :**

1) Petitioner, accused in RCC No. 75 of 2023 pending on the file of learned Judicial Magistrate First Class, Pimpalgaon, Taluka Niphad, District Nashik, arising out of CR No. I-123 of 2023 registered with Ozar Police Station, District Nashik, under Section 376 of Indian Penal Code has invoked jurisdiction of this Court under Article 226 of the Constitution of India for quashing of the said crime, with the consent of Respondent No.2, the victim.

2) At the outset, Mr. Suryawanshi, learned Advocate for Petitioner, on instructions submitted that, till date the said case is not committed to the Court of Sessions and it is still pending on the file of the learned Judicial Magistrate First Class, Pimpalgaon for committal. The said statement is accepted.

3) Learned Advocate for Petitioner submitted that, the Petitioner and Respondent No.2 have now settled their disputes and differences and the Respondent No.2 has given her consent for quashing of the said case. He therefore prayed that, the said case may be quashed with the consent of Respondent No.2.

4) Advocate Mr. Taskar appearing for Respondent No.2 tendered across the bar her Affidavit dated 6<sup>th</sup> May 2024 duly affirmed before the Assistant Registrar of this Court. It is stated therein that, during the pendency of the investigation of the said crime, due to intervention of senior members from the family of both the sides as well as respected persons from their community, the Petitioner and Respondent No.2 have arrived at amicable settlement. They have now buried their enmity once for all. The Respondent No.2 has stated that, this Court may please to quash the said F.I.R. registered against the Petitioner.

5) Perusal of First Information Report indicates that, on the alleged date of first assault i.e. in the month of May 2023, the Respondent No.2 was a married woman. The Petitioner by giving promise to marry with the Respondent No.2 established physical relations with her. It appears that, their relations were consensual in nature. It is only when the Petitioner started forcing the Respondent No.2 to continue with the said relations and when the Respondent No.2 refused to submit herself to his unreasonable demands, the Petitioner informed their relations to her husband, upon which the

Respondent No.2 was driven away from her matrimonial house. In this brief premise, present crime is registered.

5.1) As noted earlier, it appears to us that, the relations between the Petitioner and Respondent No.2 were consensual in nature and therefore the crime in question can be quashed, with the consent of Respondent No.2.

6) In view of the above, we are inclined to quash RCC No. 75 of 2023 pending on the file of learned Judicial Magistrate First Class, Pimpalgaon, Taluka Niphad, District Nashik, arising out of CR No. I-123 of 2023 registered with Ozar Police Station, District Nashik.

7) As we expressed our opinion for quashing of said RCC No. 75 of 2023 pending on the file of learned Judicial Magistrate First Class, Pimpalgaon, Taluka Niphad, District Nashik, learned Advocate for Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs.75,000/- to the Central Police Welfare Fund within a period of two weeks from the date of uploading of present Order on the official website of High Court of Bombay. The said statement is accepted as an undertaking given to this Court.

7.1) We therefore direct the Petitioner to pay the cost of Rs.75,000/- to the Central Police Welfare Fund within a period of two weeks from the date of uploading of the present Order on the official website of High Court of Bombay.

7.2) Details of the bank Account for payment of cost are as under:-

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai, Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number :- 914010029005759

IFSC Code :- UTIB0000060

Petitioner to deposit the said cost of Rs.75,000/- within stipulated period as noted above and submit receipt of the same in the Registry of this Court.

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

9) 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 said case expeditiously.

10) List the Petition on board on 30<sup>th</sup> July 2024 under caption 'for reporting compliance' of present Order.

11) All the concerned to act on the basis of an authenticated copy of this Order.

( DR. NEELA GOKHALE, J. )

( A.S. GADKARI, J. )