

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 2344 OF 2024**

Akshay Madan Kharat

...Petitioner

Vs.

The State of Maharashtra & Anr.

...Respondents

Ms. Mallika Sharma a/w Ms. Asha Joshi for the Petitioner.

Mr. A. S. Shalgaonkar, APP for Respondent No.1-State.

Ms. Aarti R. Dharamsey for Respondent No. 2 (through VC).

Mr. Dnyaneshwar Ladse, PSI, Mulund Police Station present.

CORAM : A. S. GADKARI AND**DR. NEELA GOKHALE, JJ.****DATE : 18th JUNE 2024****P.C.:-**

1) The Petitioner, Accused in Sessions Case No. 940 of 2023 pending on the file of Additional Sessions Judge at Greater Bombay arising out of C.R. No. 319 of 2023 registered with Mulund Police Station, Mumbai under Sections 376, 376(2)(n) and 417 of the Indian Penal Code, 1860, has invoked jurisdiction of this Court under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, 1973 for quashing of the said case with the consent of Respondent No. 2, the victim.

2) Learned Advocate for the Petitioner submitted that, the Petitioner and Respondent No. 2 have settled their disputes and differences amicably and Respondent No. 2 has given her consent for quashing of the said crime. That, Respondent No. 2 has filed an Affidavit dated 18th April 2024 to that effect. She therefore prayed

that the said case may be quashed with the consent of Respondent No. 2.

3) Learned Advocate for Respondent No. 2 on instructions concedes to the fact of filing of the Affidavit dated 18th April 2024 by Respondent No. 2. That, in paragraph no. 2 thereof, Respondent No. 2 has stated that, she was having love affair with the Petitioner and had consensual sexual intercourse on the pretext of marriage, irrespective of having the knowledge of consequences of inter-religious marriage. That, due to misunderstanding between herself and the Petitioner and also under tremendous pressure from her family members, she was constrained to lodge the present crime against the Petitioner with the allegations mentioned in the First Information Report ("F.I.R."). She has further stated that, she is neither interested to lead evidence in the matter, nor interested to proceed with the matter against the Petitioner and therefore, had given her consent for releasing the Petitioner on bail before the Sessions Court. In paragraph no. 5 thereof, Respondent No. 2 has given her no objection for quashing of the Sessions Case No. 940 of 2023.

3.1) Respondent No. 2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 18th April 2024 and her 'no objection' for quashing of the crime in question.

4) We have perused the F.I.R. and charge-sheet. Perusal of

F.I.R. indicates that the Petitioner came in contact with Respondent No. 2 on a website viz. www.shadhi.com. That, in January 2023, the Petitioner sent a request to Respondent No. 2 on the said website, which was accepted by her. Subsequently, they met at Airoli and other places. Their acquaintance was subsequently blossomed into an affair and by giving promise to marry to Respondent No. 2, the Petitioner established physical relations with her. The Petitioner assured Respondent No. 2 that, though their marriage might be an inter-religion marriage, their family members would support him. On 16th May 2023, the Petitioner called Respondent No. 2 to meet him and told her that, he is no more interested in performing marriage with her and resiled from his promise to marry with her. In this brief premise, the present crime is registered.

5) Perusal of the F.I.R. and other documents annexed with the charge-sheet, indicates that relations between the Petitioner and Respondent No. 2 were consensual in nature. Respondent No. 2 in paragraph no. 2 of her Affidavit dated 18th April 2024 has admitted the fact that, she had consensual sexual intercourse with the Petitioner and in paragraph no. 5 thereof, she has given her no objection for quashing of the Sessions Case No. 940 of 2023.

6) In view thereof, we are inclined to quash the Sessions Case No. 940 of 2023 pending on the file of the learned Additional Sessions Judge at Greater Bombay arising out of the C.R. No. 319 of 2023 registered with Mulund Police Station, Mumbai.

7) As we expressed our opinion for quashing of said Sessions Case No. 940 of 2023 pending on the file of learned Additional Sessions Judge at Greater Bombay, learned Advocate for the Petitioner on instructions submitted that, the Petitioner will pay a cost of Rs. 50,000/- (Rupees Fifty Thousand Only) 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.

8) We therefore direct the Petitioner to pay a cost of Rs. 50,000/- (Rupees Fifty Thousand Only) to the Advocates' Association of Western India Generation Next Fund, Mumbai, within a period of two weeks from the date of uploading of the present Order on the official website of Bombay High Court.

8.1) The 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 Name	:-	Bank of India
Branch Name	:-	Mumbai Main
IFSC Code	:-	BKID0000001

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

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

10) 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 Sessions Court will proceed with the Sessions Case No. 940 of 2023 expeditiously.

11) List the Petition on board on 18th July 2024, under caption 'For Reporting Compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(A. S. GADKARI, J.)

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KRISHNA
KOTAWADEKAR

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Date: 2024.06.29
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