



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4419 OF 2024

Jayan Sreedharan Nair

.....Petitioner

Vs.

XXX & Anr.

.....Respondents

Mr. Deepak V. Dere with Mr. Durgesh D. Sarfare, for the Petitioner.

Mr. Ashish N. Phalke, for the Respondent No.1.

Mr. Sukanata A. Karmakar, APP for Respondent No.2-State.

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.**

DATE : 17th DECEMBER 2024.

P.C.:-

1) This is a Petition for quashing of the F.I.R. registered vide C.R.No.590 of 2021 dated 23rd October 2021 under Sections 376 and 417 of the Indian Penal Code at N.M.Joshi Marg Police Station and the resultant Court Case No.360 of 2022 pending before the Sessions Court, Mumbai, as the chargesheet is already filed.

2) Heard Mr. Dere, learned counsel for the Petitioner, Mr. Phalke, learned counsel for the Repondent No.1 and Mr. Karmakar, for Respondent No.2-State.

3) The F.I.R. is lodged by the first informant-Respondent No.1. She has stated that in the year 2015, she was working as a

Deputy Manager with a bank. The Petitioner was working as Senior Manager in the same bank. In the year 2016, the Petitioner was transferred to Airoli. At that time, for the first time he professed his love for the informant. The F.I.R. thereafter mentions that in October 2016, they had their first physical relation. The F.I.R. thereafter goes on to mention many other instances at different places, where the Petitioner and the Respondent No.1 had their physical relations. The F.I.R. clearly mentioned that she was well aware that the Petitioner was already married and was having a family. The F.I.R. goes on to mention that they continued their physical relations till August 2021. In between, the Petitioner's wife also had quarreled with the informant. It is her case that the Petitioner had promised to marry her by leaving his family. But when he did not keep his promise, this F.I.R. is lodged.

4) The chargesheet contains statements of one of the their colleagues and other witnesses connected with the lodge etc. The main allegations are made in the F.I.R. itself.

5) After all this, now the matter is settled between the parties. The Respondent No.2 has filed her Affidavit of consent. She has stated in her Affidavit that she is to get married shortly and

intending to travel abroad on permanent basis. She has specifically stated that she had lodged the F.I.R. out of misunderstanding and because of the anger entertained by her against the Petitioner. That she is withdrawing all the allegations and she is giving her unconditional consent to quash these proceedings.

6) The Respondent No.1 was interviewed by one of us (Dr.Neela Gokhale, J.) in her chamber. The informant reiterated the contents of the Affidavit and stated that she has no objection for quashing of the proceeding. In any case, from the description in the F.I.R. it clearly appears to be a purely consensual physical relationship. The informant was well aware of the marital status of the Petitioner. Therefore, we are inclined to allow this Petition. However, since the police machinery was misused by both the parties, we intend to impose some costs in this matter. Hence, the following order:

ORDER

- (i) The F.I.R. registered vide C.R.No.590 of 2021 dated 23rd October 2021 at N.M.Joshi Marg Police Station and culminating Criminal Case No.360 of 2022 pending before the Sessions Court, Mumbai are quashed and set aside.

- (ii) The Petitioner shall deposit cost of Rs.25,000/- with the Central Police Welfare Fund within a period of six weeks from today. The details of the bank account for payment of cost are as under :-

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai (M.H.), Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number:- 914010029005759

IFSC Code :- UTIB0000060

- (iii) If such cost is deposited and acknowledgment is shown in the Registry, there shall be no further reference to this Court. But if it is not shown in the Registry, the matter be listed for further consideration on 11th February 2025 and in that case, this order is liable to be recalled and the proceedings can stand revived.

- (iv) With these observations, the Writ Petition is disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)