

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 499 OF 2024**

Mahendran Ramaiyya

.....Applicant

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Ms. Thikar Reshma Babu with Mr. S. Dileep for the Applicant.

Smt. Anamika Malhotra Addl.PP, for Respondent No.1-State.

Mr. Jaydeep Shringare, for Respondent No.2.

**CORAM : A. S. GADKARI AND
DR NEELA GOKHALE, JJ.****DATE : 9th JULY, 2024.****PC.:-**

1) Applicant, accused in C.C. No.400/PW/2023 pending on the file of Metropolitan Magistrate 12th Court, Bandra, Mumbai, arising out of C.R.No.343 of 2022 dated 6th November 2022 registered with Shahunagar Police Station, Mumbai under Sections 376(2)(n), 417, 323, 201, 504 and 506 of the Indian Penal Code (IPC), has filed the present Application under Section 482 of the Code of Criminal Procedure for quashing of the said case with the consent of Respondent No.2, the victim.

1.1) At the outset, the learned Advocate for the Applicant submitted that, the said case is not yet committed to the Court of Sessions and is pending on the file of learned Metropolitan Magistrate. Learned APP on

instructions concedes to the said fact.

2) Learned Advocate for the Applicant submitted that, the relations between the Applicant and the Respondent No.2 were consensual in nature. That, when the Applicant did not accept her as his wife, their relations got soured and out of frustration, she has lodged present crime. She submitted that, now the Applicant and the Respondent No.2 have amicably settled their disputes and differences and the Respondent No.2 has agreed to give her consent for quashing of the crime in question. She therefore, prayed that, the said crime may be quashed with the consent of Respondent No.2.

3) Learned Advocate for the Respondent No.2 submitted that, the Respondent No.2 has filed an Affidavit dated 27th May 2024, duly affirmed before a Notary Public. In the said Affidavit, the Respondent No.2 has stated that, the only reason for filing the complaint was that the Applicant refused to marry with her in view of the objection of his family members. She has admitted the fact of amicable settlement and thereby consenting to allow the prayer of the Applicant for quashing of the crime. In paragraph 5 thereof, she has given her no objection and her free consent for quashing of the said crime.

3.1) The Respondent No.2 is personally present in the Court and through her Advocate reiterates the contents of her Affidavit dated 27th May 2024 and her 'no objection' for quashing of the crime in question.

4) Perusal of the First Information Report and other record annexed with the Application clearly indicates that, the relations between the Applicant and Respondent No.2 were consensual in nature. At one place in the FIR itself, the Respondent No.2 has stated that, as the Applicant gave her promise to marry, she indulged into relations with him willfully and/or with her consent. It is only after the Applicant resiled from his promise of marriage, due to opposition from his family members, out of frustration and anger, she lodged the present crime.

4.1) In this precise background, the Respondent No.2 in her Affidavit dated 27th May 2024, in paragraph 4 has stated that, she is now not willing to lead any evidence whether oral or documentary, either before police machinery or before appropriate Court of law in view of an amicable settlement and thereby consenting to allow the prayer made in the quashing Application. If the Respondent No.2 was desirous of not leading any evidence against the Applicant, we fail to understand then why she set criminal law into motion, prompting the police machinery to spend their valuable time in investigating it and to file the charge sheet.

5) Be that as it may. In view of the facts mentioned above, we are inclined to quash C.C. No.400/PW/2023 pending on the file of Metropolitan Magistrate 12th Court, Bandra, Mumbai arising out of C.R.No.343 of 2022 dated 6th November 2022 registered with Shahunagar Police Station, Mumbai.

6) As we expressed our opinion for quashing of the said C.C. No.400/PW/2023 pending on the file of Metropolitan Magistrate 12th Court, Bandra, Mumbai arising out of C.R.No.343 of 2022 dated 6th November 2022 registered with Shahunagar Police Station, Mumbai, learned advocate for the Applicant, on instructions submitted that, the Applicant will pay a cost of Rs.1,00,000/- to the Central Police Welfare Fund, Maharashtra State within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

6.1) In view of the observations made in paragraph 4.1, the learned Advocate for the Respondent No.2 submitted that the Respondent No.2 will also pay a cost of Rs.25,000/- to the Central Police Welfare Fund, Maharashtra State, within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court. The said statement is accepted as an undertaking given to this Court.

7) We therefore direct the Applicant and Respondent No.2 to pay a cost of Rs.1,00,000/- and Rs.25,000/- respectively to the Central Police Welfare Fund, Maharashtra State within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

7.1) Details of the bank account for payment of cost are as under :-

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

7.2) Applicant and the Respondent No.2 to deposit the aforesaid costs within stipulated period as noted above and submit receipts of the same in the Registry of this Court.

8) In view of the above and subject to payment of costs by the Applicant and the Respondent No.2, Application is allowed in terms of prayer clauses (a) and (b).

9) It is made clear that, if either of the parties fail to pay the said cost as aforesaid, the Application shall stand revived automatically and in that event, the trial Court will proceed with the hearing of the said case expeditiously.

10) List the Application on board on 31st July 2024 under caption 'for reporting compliance' of present Order.

(DR NEELA GOKHALE, J.)

(A.S. GADKARI, J.)