

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.945 OF 2024

Zaid Mohammedd Mukkim PallaApplicant
Versus
The State of Maharashtra
and anotherRespondents

Mr. Ninad P. Muzumdar, Advocate for the Applicant.
Smt. Anamika Malhotra, APP for the Respondent No.1-State.
Mr. Subhash Nambiar, Advocate i/b. Krishna Goghikar, for the
Respondent No.2.

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

DATE : 15th OCTOBER, 2024

PC. :

1. This is an Application for quashing and setting aside the proceedings arising out of C.R. No.560/2023 registered at Magunga police station, Mumbai on 28.12.2023 under Sections 376(2)(n), 504, 506, 323 of IPC. The investigation is complete. The charge-sheet is filed and the Applicants are also praying for quashing of the proceedings in connection with the charge-sheet filed bearing C.C. No.699/PW/2024 before the Additional Chief Metropolitan Magistrate, 30th Court, Kurla, Mumbai.

2. Heard Mr. Ninad Muzumdar, learned counsel for the Applicant, Smt. Anamika Malhotra, learned APP for the Respondent No.1-State and Mr. Subhash Nambiar, learned counsel for the Respondent No.2.

3. The FIR is lodged by the Respondent No.2. She has stated that in November, 2021 she got acquainted with the Applicant in a gym. In January, 2022 the Applicant told her that he was in love with her. The informant accepted his proposal. She has clearly stated in her FIR that from that point onward they were in a love relationship. The FIR mentions that on 11.1.2022 the Applicant told her that he would marry her. At that time they had their first physical relations. According to her it was against her will. The FIR goes on to mention that after the first incident, they met on many occasions. They had gone to different places and they had physical relations on many occasions. In the meantime, the informant came to know that the Applicant was also in relationships with other girls. Therefore, there was quarrel between them in August, 2022. She has alleged that the Applicant had beaten her. The Applicant's

parents were aware of their relationship. Both of them were belonging to different religions. In August, 2022 there was a break-up in their relationship. They were not on talking terms till April, 2023. In between the Applicant got engaged with two girls but on both the occasions there was no marriage with those girls. In April, 2023, the informant and the Applicant got in touch with each other again. Their families i.e. the informant's family and the Applicant's family also got to know that they were together. In December, 2023 suddenly the Applicant started looking for marriage proposals of other girls. Again there was a quarrel. According to the informant, they had their last physical relations on 25.12.2023. After that she lodged her FIR on 28.12.2023. the investigation was carried out and the charge-sheet is filed. After filing of the charge-sheet, the Respondent No.2 has filed her affidavit dated 20.9.2024. The contents of the affidavit are as under :

- “1. I state that I am the informant in the present CR no. 560 of 2023 registered with the Matunga police station.
2. I have mutually resolved my dispute with the Petitioner/accused Zaid Mohammed Mukkim Palla after

discussing all my grievances calmly and after considering the same with a calm mind.

3. I state that I myself and Petitioner/accused were in love with each other and for all subsequent relations with the Petitioner there was always my consent knowing fully well that the Petitioner is from a different religion and that it would be a difficult relationship moving forward due to our difference in opinions and religious beliefs.
4. The police complaint came to be filed after our frequent arguments and due to our difference in opinions and our incompatibility and due to our different goals for our respective future and hence all of this frustration culminated into misunderstanding which resulted in registration of FIR.
5. The present affidavit has been executed by me without any force or coercion or undue influence and by my free will.
6. I hereby unconditionally withdraw all allegations and grievances against the accused/petitioner Zaid Mohammed Mukkim Palla.
7. The present settlement has taken place with calm and mature minds who has fully understood the situation of the each other and taken the present decision.
8. The Petitioner has assured me that
 - A) petitioner shall never try to meet me or speak to me by any means.
 - B) Petitioner shall always stay away from me in every circumstance and shall not try to threaten me.
 - C) Petitioner shall not contact my family or threaten my family for whatsoever Reasons.
 - D) Petitioner does not have in his possession an photographs

or Media concerning me.

And I have accepted the said assurances.

I say that I am Satisfied with the above mentioned Assurances and hence I am Affirming this affidavit for the purpose of filing it in quashing petition of the petitioner Zaid Mohammed Mukkim Palla. In pursuance of the aforesaid there are no other grievances or claims of whatsoever nature pending against the petitioner Zaid Mohammed Mukkim Palla

9. I am aware of all the contents of the affidavit and I am making this affidavit out of my own free will and consent and without any coercion and undue influence.”

4. From the FIR, it was clear that it was a consensual relationship. The informant was aware that because of the difference in their religion, the marriage was not possible. After their break-up in August, 2022, they again came together in May, 2023 and even thereafter they reestablished their physical relations. Even in her affidavit filed before the Court she has specifically stated that both of them were in love and for all subsequent relations there was always her consent knowing fully well that it would be a difficult relationship to move forward due to difference in their religion.

5. The informant is in Dubai. Learned APP had personal interaction with the informant through Video Conferencing. Learned APP stated before the Court that she has verified the genuine desire of the informant for giving no objection for quashing of the FIR.

6. Thus it can be seen that it was a consensual relationship. Consent was given by the informant for the relationship knowing fully well the difficulties in taking the relationship forward. Therefore, even *prima facie* it is difficult to observe that the ingredients of Sections alleged against the Applicant are made out. In this background, we do not find any impediment in accepting the informant's affidavit and allowing this Application.

7. The relationship between the parties was purely personal. There was no force involved. In this background, the Application can be allowed. However, considering the fact that the investigation was carried out and the police machinery had to be used for this purpose and also taking into account the conduct of the Applicant, we are inclined to impose cost of Rs.50,000/- on

the Applicant. It is made clear that this order would be a conditional order. The Applicant will have to deposit the said amount, as directed by us, within a period of four weeks from today. After that period, he will have to submit a proof of such payment in the Registry of this Court. If these directions are not complied with, the present order is liable to be recalled.

8. Hence, the following order:

:: O R D E R ::

- i. The FIR vide C.R. No.560/2023 registered at Magunga police station, Mumbai and the consequent proceedings in connection with the charge-sheet filed bearing C.C. No.699/PW/2024 before the Additional Chief Metropolitan Magistrate, 30th Court, Kurla, Mumbai, are quashed and set aside, subject to the Applicant paying cost of Rs.50,000/- (Rupees Fifty Thousand Only) to the Armed Forces Battle Casualties Welfare Fund within a period of four weeks from today. The details of the bank account for payment of cost are as under :

Account Name :- Armed Forces Battle Casualties Welfare Fund

Bank Name :- Canara Bank

Branch Name :- South Block, Defence Headquarters, New Delhi
- 110 011

Account Number:- 90552010165915

IFSC Code :- CNRB0019055

- ii. The Applicant shall submit a proof of such payment before the Registry of this Court within that period. If such a proof is submitted, the Registry shall not take any further action. But, if such a proof is not submitted, the matter be listed before this Court mentioning non-compliance of the order. In that case this order is liable to be recalled and set aside.
- iii. The Applicant shall abide by all the expectations mentioned by the first informant in paragraph No.8 of her affidavit.
- iv. The Application is disposed in the aforesaid terms.

(DR.NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)