

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1487 OF 2024

Mohd. Yusuf Ilyas Shaikh

.....Applicant

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Fazalurrahman Shaikh, for the Applicant.

Mr. R. M. Pethe, APP, for Respondent No.1-State.

Mr. Karim Pathan with Adv. Shrne Illahi Turkey & Adv. Tavish Shaikh,
for Respondent No.2.

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

DATE : 3rd DECEMBER 2024.

P.C.:-

1) Leave to amend to mask the identity of the Respondent No.2. Amendment be carried out forthwith.

2) The present Application is filed for quashing of the FIR registered vide C.R.No.457 of 2018 at Malvani Police Station, Mumbai resulting in Sessions Case No.70 of 2019 pending before the Sessions Court, Mumbai for the offences punishable under Sections 376, 417, 323 and 504 of the Indian Penal Code, 1860 ('IPC').

3) We have heard Mr. Fazalurrahman Shaikh for the Applicant, Mr. Pethe learned APP for State and Mr. Karim Pathan for

Respondent No.2.

4) The FIR is lodged by the Respondent No.2 on 29th June 2018. She has stated in the FIR that she was a married lady residing separately from her husband with her children since 2011. In 2011, she got acquainted with the Applicant. They slowly developed friendship and then love relationship. FIR thereafter goes to mention that in 2012, they had their first physical relations. The Applicant promised to marry her. He took the Informant to his house and introduced her to his mother and wife. She stayed with the Applicant's family for about four years. After that in the year 2016, she and the Applicant took a separate room at Malvani but even thereafter he did not marry her and then this FIR is lodged.

5) Investigation was carried out and the charge-sheet was filed. The main statement in the charge-sheet is the statement of the Respondent No.2 herself. From the bare reading of the FIR, it is clear that it was a consensual relationship. The Respondent No.2 herself was a married lady. She was not divorced. The Applicant was also married. Knowing fully well, all these circumstances, the Respondent No.2 stayed with the Applicant's family and they had their regular physical relations and, therefore, on merits also, there is substance in

the contention of the learned counsel for the Applicant that no offence is made out.

6) Be that as it may, parties have now settled the dispute. The Respondent No.2 has filed her Consent Affidavit dated 12th September 2024 giving specific no objection for quashing of the criminal proceeding. Respondent No.2 is present in the Court and is identified by her counsel. She reiterates her stand taken in the Affidavit and gives her no objection for quashing of the criminal proceeding.

7) Considering the situation, we are inclined to quash the criminal proceeding as continuation of the same would be an abuse of process of law. Hence, the following order:

ORDER

(i) Sessions Case No.70 of 2019 pending before the Sessions Court, Mumbai arising out of the FIR registered vide C.R.No.457 of 2018 at Malvani Police Station, Mumbai is quashed and set aside.

8) Petition stands disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)