

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1585 OF 2024

Akshay Bhaskar Kambli,
Age : 30 years, Occ. : Service,
R/o. 02, General Arunkumar
Vaidya Marg, Mahim Causeway Slope,
Mahim (W), Mumbai – 400 016,
Bhagatsing Nagar No. 2,
Rajaram Gali, Goregaon (W),
Mumbai – 400 104.

.....Applicant

Vs.

1. The State of Maharashtra,
Through P.I.,
Malvan Police Station.
(Notice to be served on Public Prosecutor,
High Court, Mumbai.)

2. XYZ,
Age : 26 years, Occ. : Nil,
R/o. Room No. 10,
Bhagatsing Nagar No. 2,
Rajaram Gali, Goregaon (W),
Mumbai – 400 104.

.....Respondents

Mr. M. K. Kocharekar a/w Ms. Sulajja Patil for the Applicant.
Smt. Anamika Malhotra, Addl.PP for the Respondent-State.
Mr. Omkar Nagvekar for Respondent No. 2.

CORAM : M. S. KARNIK AND
DR. NEELA GOKHALE, JJ.
DATE : 21st NOVEMBER 2024.

ORDER :- (Per Dr. Neela Gokhale, J.)

1) The Applicant seeks to quash and set aside Special Case No.57
of 2023 pending before the Special Court, Sindhudurg arising out of FIR

vide C.R.No. 117 of 2023 dated 5th May 2023 registered with Malvan Police Station, District: Sindhudurg for the offences punishable under Sections 376(2)(n) of the Indian Penal Code, 1860 ('IPC') and under Sections 3(1)(r), 3(1)(s), 3(1)(w) & 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 ('SC & ST Act'). Initially, the Respondent No.2 had filed FIR No. 250 of 2023 dated 4th May 2023 with Mahim Police Station, Brihanmumbai under the same provisions and subsequently, this FIR came to be transferred to Malvan Police Station as FIR vide C.R.No. 117 of 2023.

2) Mr. M. K. Kocharekar learned counsel appears for the Applicant and Smt. Anamika Malhotra, learned APP represents the State. Mr. Omkar Nagvekar, learned counsel appears for the Respondent No. 2.

3) It is alleged in the FIR by the Respondent No. 2 that by giving promise of marriage to her, the Applicant No.1 kept physical relations with her repeatedly. Later on, he refused to marry her on the ground that she belongs to a lower caste community.

4) Respondent No.2 has filed her Affidavit of Consent dated 19th November, 2024 duly affirmed before the Assistant Registrar of this Court. In paragraph No. 4 thereof, she has stated that she has decided to move on with her married life and concentrate on her career. She has further stated that she does not want to look back at her past. In paragraph 7 thereof, she has stated that she has no objection to quash and set aside the special case

arising from the present FIR registered against the Applicant.

5) The Respondent No. 2 is present in the Court and she is identified by her counsel. She reiterated the statements made in the consent Affidavit. We accept the same.

6) Considering the facts in the present case and the consent Affidavit of Respondent No. 2, we are inclined to quash and set aside the Special Case No.57 of 2023 pending before the Special Court, Sindhudurg arising out of FIR vide C.R.No. 117 of 2023 dated 5th May 2023 registered with Malvan Police Station, District: Sindhudurg.

7) As we expressed our opinion for quashing of the Special Case No.57 of 2023 pending before the Special Court, Sindhudurg arising out of FIR vide C.R.No. 117 of 2023 dated 5th May 2023 registered with Malvan Police Station, District: Sindhudurg, learned counsel for the Applicant, on instructions submitted that, the Applicant will pay a cost of Rs.10,000/- to Kirtikar Law Library, High Court, Mumbai 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.

8) We therefore, direct the Applicant to pay a cost of Rs.10,000/- to the Kirtikar Law Library, High Court, Mumbai within a period of two weeks from the date of uploading of present Order on the official website of Bombay High Court.

- 8.1) Applicant to deposit the said cost 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, Application is allowed in terms of prayer clause (b).
- 10) It is made clear that, if the cost is not paid within stipulated period as mentioned above, the Application shall stand revived automatically and in that event, the trial Court shall proceed with the case expeditiously.
- 11) List the Application on board 19th December 2024 under caption 'for reporting compliance' of present Order.

(DR. NEELA GOKHALE, J.)

(M. S. KARNIK, J.)

SHAMBHAVI
NILESH
SHIVGAN

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