

Vina Khapde
(P.S.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2607 OF 2024

Bhaskar @ Bibhishan Vishnu Shinde .. Petitioner
Versus
The State of Maharashtra and anr .. Respondents

-
- Mr. Paras Yadav for the Petitioner.
 - Mr. B. V. Holambe-Patil, APP for the Respondent – State.
 - Mr. Viral Babar for Respondent No.2.
-

**CORAM : SARANG V. KOTWAL &
S.M. MODAK, JJ.**

DATE : 4th FEBRUARY 2025

P.C.:

1. This Writ Petition is for quashing and setting aside Sessions Case No.65 of 2024 pending before the Judicial Magistrate, First Class, Karad arising out of C.R. No.545 of 2024 dated 9/4/2024 registered at Karad City Police Station under Sections 376, 376(2)(n), 406, 420 r/w 506 of the Indian Penal Code, 1860.

2. Leave to amend is granted to add the Sessions Case Number and prayer to quash the said case. Amendment shall be carried out forthwith.

3. Heard Mr. Paras Yadav for the Petitioner, Mr. B. V. Holambe-Patil, APP for the Respondent – State and Mr. Viral Babar for Respondent No.2.

4. FIR is lodged by Respondent No.2. She has stated that she was

Digitally
signed by
VINA
ARVIND
KHADPE
Date:
2025.02.10
11:06:32
+0530

42 years of age and she was staying alone. In May, 2021, she was seeking instructions on share market trading. She came in contact with the present Petitioner. They had telephonic conversation and then at his instance, she had completed two weeks' training course in October 2021. During that period, the Petitioner took her personal information. He told her that he was staying alone. His wife was mentally unfit etc. and got friendly with Respondent No.2 / Informant. He suggested that the gold which was lying without any benefit in her house could be used for investment. On that pretext he took 26 tolas gold ornaments from her. The FIR thereafter mentions two instances, i.e. 30/10/2021 and 16/3/2022, when they had their physical relations in a hotel. It is her case that on both these instances, the physical relations were against her will. There are other allegations that she had given Rs. 13 Lakhs in cash to the Petitioner. On 18/12/2021, he came to her house and that time also they had physical relations. After that, he refused to return the gold ornaments and the amount which he had taken from her. On this basis, the FIR was lodged.

5. The investigation was carried out and the chargesheet is filed. The chargesheet contains the investigation in respect of that particular hotel and their whatsapp messages. There are statements of some of the witnesses in respect of the investment business.

6. Now the matter is amicably settled between the parties. The informant / Respondent No.2 has filed two affidavits. In both the affidavits she has stated that she has no objection for quashing of the proceedings. In the second affidavit dated 4/2/2025, she has stated that there were no further disputes relating to the consideration amount. In that affidavit, she has specifically mentioned that the relationship was purely consensual and was kept with her consent. She is present in the Court and she is identified by her learned Counsel. She has reiterated the statements made in the affidavit and she has stated before the Court that she has no objection for quashing of the present proceedings.

7. We have considered the submissions from the record available and it is clear that it was purely a consensual physical relationship. Now the matter is settled between the parties. She was an adult. She has no objection for quashing of the proceedings. She has no grievance about the money and the ornaments allegedly taken by the Petitioner. The dispute is purely personal in nature. The offence punishable under Section 376 of IPC is not made out from the chargesheet because of their consensual relationship. On all these grounds, the Petition can be allowed and the proceedings can be quashed. Hence, the following order :

ORDER

- (i) Sessions Case No.65 of 2024 pending before the Judicial Magistrate First Class, Karad arising out of C.R. No.545 of 2024 dated 9/4/2024 registered at Karad City Police Station under Sections 376, 376(2)(n), 406, 420 r/w 506 of the Indian Penal Code, 1860, is quashed and set aside subject to the payment of cost of Rs.25,000/- to the Central Police Welfare Fund, by the Petitioner. The details of which are as follows :

Bank name : Axis Bank
Branch : Worli, Mumbai (H.H.) Mumbai-400025
Account Name : Central Police Welfare Fund
Account No. : 914010029005759
IFSC Code : UTIB0000060

- (ii) The cost to be paid within a period of eight weeks from today and the receipt of the same shall be submitted to the Registry of this Court. If such proof is shown, then there shall be no further reference to the Court. But if the cost is not paid and the receipt is not shown, then the Registry shall post this matter for further consideration, and in that situation, this order is liable to be recalled.
- (iii) Writ Petition is allowed and disposed of in the aforesaid terms.

[S.M. MODAK, J.]

[SARANG V. KOTWAL , J.]