

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

CRIMINAL WRIT PETITION NO. 1759 OF 2024

Mo. Saheb Alam @ Saheb Ali Shaikh	..Petitioner
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. R. R. Mishra for Petitioner.
Mr. S.V. Gavand, APP for State/Respondent.
Mr. Rahul S. Tiwari for the Respondent No.2.

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

DATE : 7 FEBRUARY 2025

PC :

1. Leave to amend is granted to the learned counsel for the petitioner to remove the name of the Respondent No.2 immediately and to describe her as 'XYZ'.

2. This is a petition for quashing of the F.I.R. and the consequent proceedings arising out of the said F.I.R. The F.I.R. was registered vide C.R.No.744 of 2022 at Nirmal Nagar police station, Mumbai, on 27.06.2022, under sections 376(2)(n), 313, 504 and 506 of the I.P.C.

3. The F.I.R. is lodged by the Respondent No.2. She has stated that, she was earlier married to her first husband and she had three children from that marriage. At the time of lodging of the F.I.R. she was 33 years of age. She had obtained divorce from her first husband in the year 2020. About six months prior to the lodging of the F.I.R. she came in contact with the petitioner. They got acquainted and became friends. Their friendship turned into a love relationship. They started meeting each other. The petitioner proposed marriage to her. She had clearly told him that she had obtained divorce from her first husband and had three children. The F.I.R. thereafter mentions that, in January 2022 they had their first physical relations, though, she has stated that it was against her wish. The F.I.R. further mentions that even thereafter they regularly had their physical relations. The petitioner had promised to marry her. In April 2022, she got pregnant, but the petitioner gave her some pills; because of which, she suffered abortion. The petitioner had told her that they would get married within a month, but after that they did not get married and, therefore, the F.I.R. was lodged. The investigation was carried out

and the charge-sheet was filed. A copy of the charge-sheet was tendered by the learned counsel for the petitioner. It is taken on record and marked 'X' for identification. Besides the F.I.R., there are statements of the neighborurs which show that the petitioner was regularly visiting the Respondent No.2.

4. Now the matter is settled between the parties. The Respondent No.2 has filed her Affidavit in reply. In that Affidavit-in-reply, she has stated that, with the help of elders, both of them had decided to marry each other and to lead a happy married life. They have got married on 13.01.2023. Thus, as of today, the petitioner and the Respondent No.2 are married. For over two years, they are leading a happy married life. She has clearly stated that, she has no objection for quashing of these proceedings by allowing this petition.

5. The Respondent No.2 is present in the Court. With the assistance of learned APP Smt. Mhatre, she informs the Court that she has no objection for quashing of the proceedings as she and the petitioner have already got married and are leading happy

married life. She is identified by her learned counsel.

6. Considering this situation, it is quite clear that the relationship was consensual. Both of them have got married, therefore, continuation of the prosecution will not serve any purpose. It would be abuse of process of law. Therefore, we are inclined to allow this petition.

7. Hence, the following order:

ORDER

- i) The F.I.R. registered vide C.R.No.744 of 2022 at Nirmal Nagar police station, Mumbai, on 27.06.2022, under sections 376(2)(n), 313, 504 and 506 of the I.P.C. and the consequential proceedings, are quashed and set aside.
- ii) The Writ petition is disposed of.

(S. M. MODAK, J.)

(SARANG V. KOTWAL, J.)