

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

CRIMINAL APPLICATION NO.1870 OF 2024

Abhishek Rajendra Kumar Srivastava	Applicant
Vs	
The State Of Maharashtra	Respondent

Adv. Sunny A. Waskar a/w. Adv. Harshada Morey a/w. Adv. Bhavika Patil, Advocate for the Applicant.

Mr. A. A. Palkar, APP for the State.

**CORAM : RAVINDRA V. GHUGE &
RAJESH S. PATIL, JJ.**

DATE : 21st JANUARY, 2025

P.C. :-

1. We have heard the learned Advocate for the Petitioner and the learned APP on behalf of the State. With their Assistance, we have perused the F.I.R No.1168, dated 14th October, 2022, registered with Hinjewadi Police Station, District Pimpri-Chinchwad, wherein Sections 64 and 69 of the Bharatiya Nyaya Sanhita, 2023, have been invoked.

2. The learned Advocate for the Petitioner has pointed out

that considering the language used in Section 64, an offence allegedly committed under Section 63, for which the punishment is prescribed under Section 64, would not stand in the light of the contents of the F.I.R., wherein the Complainant has stated that the marriage between the two was almost certain and later on he had visited her home on 9th October, 2024, where physical relations were developed. He further submits that even if it is taken at its best that Section 69 will be attracted, in that case Section 64 would not stand.

3. The learned APP submits that the charge-sheet has been filed and before the charge is framed, the Trial Court can surely consider the submissions of the learned Advocate for the Accused and take a call as to whether Section 64 would be attracted. If it forms an opinion that Section 64 would not be attracted then, a charge would not be framed under Section 64. The learned Advocate for the Accused further submits that if the Trial Court frames a charge under Section 64, he may avail of a remedy as may be permissible in law in that regard.

4. He, therefore, submits that this Application may be disposed off by keeping the liberty open to the Applicant to address

the Trial Court on whether the charge should be framed under Section 64, though, he is of the view that no offence is made out even under Section 69.

5. Considering the above this **Criminal Application** is **disposed off** by consent.

6. The learned Trial Court would consider the submissions of the learned Advocate on behalf of the Accused as regards whether a charge can be framed under Section 64. On other counts as well, the contentions are kept open. If the Applicant avails of a remedy for seeking discharge as is permissible in law, the withdrawal of this Application would not be an impediment.

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)