

(2022) 12 BOM CK 0016

In the Bombay High Court

Case No : Criminal Application [APL] No.1072 Of 20 22

Akash

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 02-12-2022

Acts Referred:

Indian Penal Code, 1860 — Section 376
Code Of Criminal Procedure, 1973 — Section 482

Citation : (2022) 12 BOM CK 0016

Hon'ble Judges : Sunil B. Shukre, J;M. W. Chandwani, J

Bench : Division Bench

Advocate : A.S. Band, I.J. Damle, A.M. Balpande

Final Decision : Allowed

Judgement

Sunil B. Shukre, J

1. Heard.

02] The learned Counsel for the applicant states that the complainant i.e. non-applicant No.2 has no objection if the crime registered against the applicant for the offence punishable under Section 376 of the Indian Penal Code is quashed and set aside, as in the opinion of non-applicant No.2 although no offence was committed by the applicant in relation to her, she filed a complaint against the applicant under the fear of her husband.

03] Non-applicant No.2 as well as the applicant both have filed a joint affidavit stating that there is an amicable settlement reached between them and as per this settlement, non-applicant No.2 would have no objection, if the crime registered against the applicant is quashed and set aside for the reasons given by non-applicant No.2 and which are mentioned in the joint affidavit.

04] The learned A.P.P. submits that an appropriate order in the matter may be passed.

05] On going through the joint affidavit filed by the complainant i.e. non-applicant No.2 and the applicant, we find that this is a case which has a predominant character of private affair between the applicant and the non-applicant No.2, although the exact nature of their affair is not known. Non-applicant No.2 has only stated that the reason for her lodging F.I.R. against the applicant was that, there used to take place some conversation between her and the applicant and one day, she feared that her husband might have learnt about the same and in order to overcome the aftermath of her husband learning about her conversation with the applicant, she filed F.I.R. against the applicant. The reason so given by non-applicant No.2 reasonably shows that whatever affairs were there in between them, they were of purely private nature into which both sides participated voluntarily. Now that, there is an amicable settlement reached between the both.

06] The applicant and non-applicant No.2 both are personally present in the Court. They have been identified by their respective Counsel. Both of them agree that an amicable settlement, as recorded in the joint affidavit filed by them, has been reached in between them voluntarily and that they would abide by the terms and conditions thereof.

07] Therefore, we are of the view that this case falls within the well established parameters set by the Supreme Court for regulating exercise of inherent powers by this Court under Section 482 of Code of Criminal Procedure, so as to quash and set aside the FIR/Charge-Sheet registered for the offences, which are not compoundable without the permission of the criminal Court. The application is, therefore, allowed in terms of the prayer clause (A), which reads as under :

(A) Quash and set aside the FIR dated 23.06.2022 registered by Police Station, Sitaburdi, Nagpur for the offence under Section 376 of Indian Penal Code, 1860 vide Crime No.254/2022.