
(2022) 04 BOM CK 0053

In the Bombay High Court

Case No : Criminal Application [Appeal] No. 523 Of 20 22

Mandar

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 13-04-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482
Indian Penal Code, 1860 — Section 354

Citation : (2022) 04 BOM CK 0053

Hon'ble Judges : V. M. Deshpande, J; Amit B. Borkar, J

Bench : Division Bench

Advocate : C. D. Rohankar, M. K. Pathan, S. R. Damhare

Final Decision : Allowed

Judgement

Amit B. Borkar, J

1. Rule. Rule is made returnable forthwith. Heard finally by consent of the parties.
2. By this application under Section 482 of the Code of Criminal Procedure, the applicant is challenging registration of the first information report dated 28.12.2021 vide Crime No. 372/2021 and consequent Charge-sheet No. 1313/2022 dated 16.03.2022 filed against him at the behest of non-applicant no.2 with non-applicant no.1 – Police Station, Bajaj Nagar, Nagpur for the offence punishable under Section 354 of the Indian Penal Code.
3. The first information report in question came to be registered against the applicant with accusation that the applicant did the act which amounted to offending the modesty of non-applicant no.2. The applicant has, therefore, challenged registration of the first information report by filing the present application. The investigating agency after completion of the investigation, filed charge-sheet against the applicant.
4. We have heard Shri C. D. Rohankar, learned counsel for the applicant, Shri M.

K. Pathan, learned Additional Public Prosecutor non-applicant no.1 and Mr. S. R. Dambhare, learned counsel for non-applicant no.2.

5. During pendency of this application, the applicant and non-applicant no.2 have mutually arrived at a settlement.

6. Non-applicant no.2, who is personally present in the Court today along with her mother, has filed an affidavit stating that registration of the first information report was due to misunderstanding with the applicant and she has mutually resolved her dispute with the applicant. Therefore, she has no objection for quashing the criminal proceedings against the applicant. The affidavit filed by non-applicant no.2 is taken on record and marked as "Exhibit-X" for the purposes of identification. The non-applicant no.2 and her mother both have stated before the Court that the consent for quashing of the criminal proceedings against the applicant is out of free will and voluntary.

7. We have also gone through the entire material placed on record in the form of charge-sheet. After going through the allegations in the first information report and the material produced in the form of charge-sheet, we are satisfied that the ingredients of the offence under Section 354 of the Indian Penal Code as alleged against the applicant are not fulfilled even if the material in the charge-sheet is taken on its face value.

8. The Hon'ble Apex Court in *Narinder Singh .vs. State of Punjab*, reported in 2014 AIR SCW 2065 has observed that the Court cannot decline to quash criminal case in which the first information report incorporates a particular provision, which is a serious offence or an offence against the society. The Court shall make all endeavor whether the first information report indeed discloses the ingredient of such offence and Court can accept the settlement and quash the first information report, if the Court is of the opinion that such offence is unnecessarily incorporated in the first information report.

9. In view of the judgment of the Hon'ble Apex Court in *Narinder Singh's* case (supra) and in view of amicable resolution of the dispute between the applicant and non-applicant no.2, there is no impediment for quashing of the first information report and the charge-sheet against the applicant. We, therefore, pass the following order :

ORDER

1. The Criminal Application is allowed.

3. Rule is made absolute in terms of prayer clause (i), which reads as under :

"quash and set aside the First Information Report vide Crime No. 372/2021 registered at Police Station, Bajaj Nagar, Nagpur on 28.12.2021 and charge-sheet which registered as R.C.C. No. 1313/2022 on 16.03.2022 pending before the learned Judicial Magistrate, First Class at Nagpur, in connection with the offences punishable under Sections 354 of the Indian Penal Code."