

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3855 OF 2015

Ashraf Qamaruzzaman Azmi and others	... Petitioners
Vs.	
State of Maharashtra and others	... Respondents

Mr. Sualeh Nagvadaria for Petitioners.
Mr. J. P. Yagnik, APP for Respondents-State.
Mr. R. I. Shaikh for Respondent No.3.

**CORAM : RANJIT MORE &
R. G. KETKAR, JJ.**

DATE : 01ST OCTOBER, 2015.

PC:

Heard learned Counsel appearing for the respective parties.

2. The petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Criminal Procedure Code, 1973 for quashing and setting aside the FIR bearing C.R. No. 322 of 2014 registered with Oshiwara Police Station, Mumbai. The said FIR was registered against the petitioners at the instance of respondent No.3 for the offences punishable under Sections 354-A, 498-A, 406, 506 read with Section 34 of the Indian Penal Code, 1860 (for short “the IPC”).

3. Petitioner No.1 was married with the respondent No.3. Rest of the petitioners are the family members of the petitioner No.1. Matrimonial

dispute between the parties gave rise to filing of several proceedings in different Courts. The subject matter of the present Petition is one of them. Respondent No.3 also filed a Criminal Complaint bearing No.165/DV/2014 before the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai under the Protection of Women from Domestic Violence Act, 2005.

4. Pending investigation, the parties have settled their dispute amicably. Respondent No.3 agrees to withdraw Criminal Complaint bearing No. 165/DV/2014 pending on the file of the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai as well as the subject FIR on the condition that the petitioner No.1 shall pay an amount of Rs.31 lacs to the respondent No.3 towards permanent alimony. In pursuance of an understanding arrived at between the parties, they have approached this Court for quashing and setting-aside the subject FIR by consent.

5. Respondent No.3 has filed an affidavit dated 30th September, 2015. In paragraph 6, she has given her no objection for quashing and setting-aside the subject FIR. Respondent No.3 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has understood the contents thereof and she has no objection if the subject FIR is quashed and set-aside.

6. Mr. Iqram Iqbal Hasanfatta, Power of Attorney of the petitioners is present in the Court. Mr. Nagvadaria, learned Counsel for the petitioners has handed over to the respondent No.3, a Pay Order dated 21.09.2015 amounting to Rs.31,00,000/- drawn on DCB Bank Limited in favour of the respondent No.3. Photocopy of the said Pay Order is placed on record. Respondent No.3 acknowledges receipt of the Pay Order amounting to Rs.31,00,000/- in her favour. Respondent No.3 undertakes to withdraw the Criminal Complaint bearing No.165/DV/2014 pending on the file of the learned Metropolitan Magistrate, 65th Court, Andheri, Mumbai within 1 week from today. She also undertakes to sign the MoU containing the above stated terms. Undertakings are accepted.

7. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of ***B.S.Joshi versus State of Haryana, AIR 2003 SC 1386***, we are of the view that quashing of the subject FIR would be in the interest of respondent No.3. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of

justice, the subject FIR is required to be quashed and set-aside. Thus, the FIR bearing C.R. No.322 of 2014 registered with Oshiwara Police Station, Mumbai is quashed and set-aside and the Criminal Writ Petition is disposed of as such.

8. All the concerned to act on the authenticated copy of this order.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]

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CERTIFICATE

Certified to be true and correct copy of the original signed
Judgement / order.