

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.134 OF 2016

Shri Avinash Vilas Khamkar and ors. ...Applicants
Versus
The State of Maharashtra and anr. ..Respondents

Ms. B. H. Bajwa along with Ms. Kalpana Kanhere, advocate for the applicants.
Mrs. K. V. Saste, APP for the State.
Mr. Prashant Patil, advocate for respondent No.2.

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.**

DATE : 9th FEBRUARY, 2016.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The criminal application is filed under the provisions of Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting-aside the proceedings of C.C. No.117/PW/2010 pending on the file of Additional Chief Metropolitan Magistrate's 50th Court at Vikhroli, Mumbai. The said case arises out of registration of FIR bearing CR.No.9 of 2009 registered with Vikhroli Police Station, at the instance of respondent No.2, for the offences punishable under Sections 498A, 406, 323, 504 and 506 (Part II) read with Section 34 of the Indian Penal Code, 1860.

3. The applicant No.1 and respondent No.2 were married in the year 2009. Rest of the applicants are the family members of applicant No.1. Marital discord between the parties gave rise to filing of civil as well as criminal cases. The subject matter of the present application is one of them. The marriage is already dissolved by the family court. However, appeal is pending before this Court. The parties thereafter settled their dispute amicably, and in pursuance of an understanding arrived at between them, have approached this Court for quashing and setting-aside the proceedings of the subject criminal case by consent. The applicant No.1, in terms of settlement, handed over a demand draft for an amount of Rs.5,25,000/- to respondent No.2, which she has accepted.

4. Respondent No.2 has filed an affidavit dated 9th January, 2016. In paragraph 4, she has given her no objection for quashing and setting-aside the proceedings of the subject criminal case. Respondent No.2 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 proceedings of the subject criminal case are quashed and set-aside. She also stated that she is giving no objection for quashing the proceedings of the subject criminal case out of free will and without there being any pressure or coercion.

5.. 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 proceedings of the criminal case would be in the interest of respondent No.2. 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 proceedings of the subject criminal case are required to be quashed. The criminal application is, accordingly, made absolute in terms of prayer clause (A) and is disposed of as such.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]