

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1533 OF 2016

Mohammed Umar Abdul Kadar Shaikh  
and others

Petitioners

versus

The State of Maharashtra and another

Respondents

Ms.Isha C. Gadi for Petitioners.

Mr.K.V.Saste, APP, for State.

Ms.Neha Pandey for Respondent no.2.

CORAM : NARESH H. PATIL AND  
P.D.NAIK, JJ.

DATE : 14 June 2016

PC :

1. Rule. Rule is made returnable forthwith by consent of both parties. Mr.Saste, learned APP waives service for State and Ms.Neha Pandey waives service for the second Respondent.

2. The Petitioners have invoked the writ jurisdiction under Article 226 of the Constitution of India as well as inherent power of this Court under Section 482 of Code of Criminal Procedure, 1973 ('Code') and sought to challenge first

information report ('FIR') dated 23 February 2016 registered with Kurar Police Station, Mumbai vide CR No.58 of 2016. The impugned FIR was registered at the instance of second Respondent for offences under Sections 498A, 406, 323, 504, 506 read with Section 34 of Indian Penal Code. ('IPC').

3. The Petitioners are original accused nos.1 to 3. The Petitioner no.1 is the husband of the second Respondent. The second and third Petitioners are the mother-in-law and sister-in-law of the second Respondent respectively.

4. Brief facts, as stated in the FIR, are as follows :

The marriage between the second Respondent and the first Petitioner was solemnized on 11 April 2008. Initially the complainant-second Respondent was treated well by the accused-Petitioners herein. The family of the second Respondent had gifted several ornaments to her on the occasion of the marriage. It is alleged that the accused started abusing the complainant on account of the fact that she had not conceived. The accused also demanded money from the complainant and were instigating her to bring amounts from her father. The first accused-Petitioner also started suspecting the character of the complainant. On account of the said incidents, the complainant lodged FIR for the aforesaid offences.

5. Learned counsel appearing for both the parties have submitted that the family members of both the parties have resolved the dispute between the Petitioners and the second Respondent. It was also submitted that the second Respondent has no objection for quashing the FIR on account of settlement. The Petitioners have stated in the petition that they have handed over the ornaments to the second Respondent and it is decided by both the parties that first Petitioner and the second Respondent will give divorce to each other.

6. The second Respondent has submitted an affidavit dated 14 June 2016 before this Court. In the said affidavit it is stated that the FIR was registered due to the dispute, differences and misunderstanding between her and the Petitioners. It is further stated that the misunderstanding is now cleared and they have amicably and mutually settled all their disputes and differences. It is also stated that the second Respondent has no objection to quash the FIR in question as she does not wish to proceed further in the matter and lead any evidence. It is also stated that the affidavit is being submitted without any coercion or undue influence.

7. We have perused the contents of the petition, the documents annexed thereto as well as affidavit tendered by the second Respondent dated 14 June 2016. We have heard

learned counsel for the parties, who submitted that both the parties have resolved their differences and the criminal proceedings can be quashed with their consent. We are satisfied that the parties have decided to put an end to the proceedings and that the complainant is not willing to pursue the criminal proceedings and has no objection for quashing the impugned FIR.

8. Reliance can be placed on a decision of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**<sup>1</sup>, in which the Apex Court has observed that in the disputes which are of private nature or individual nature, the High Court can quash the proceedings in the event of parties settling the disputes amicably. We are satisfied that the dispute is of matrimonial nature and the public at large has no nexus with it. The parties have put an end to the differences and intend to quash the proceedings. In view of the aforesaid circumstances, we are inclined to exercise power under Article 226 of the Constitution as well as inherent power under Section 482 of the Code and quash and set aside the impugned FIR.

9. Accordingly, we pass following order :

(a) Rule is made absolute. The FIR dated 23 February 2016 registered with Kurar Police Station vide CR No.58 of 2016 for

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<sup>1</sup> (2012)10-SCC-303

offences under Sections 498A, 406, 323, 504, 506 read with Section 34 of IPC is quashed and set aside;

(b) All concerned to act on an ordinary copy of this order duly authenticated by registry of this Court.

(PD.NAIK, J.)

(NARESH H. PATIL, J.)

MST