

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1682 OF 2015

Musaddiq Nazir Parkar

Petitioner

versus

The State of Maharashtra and another

Respondents

Mr.Imran M. Shaikh for Petitioner.

Mr.J.P.Yagnik, APP, for State.

Mr.Harsh Parate for Respondent no.2.

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

DATE : 20 June 2016

PC :

1. Rule. Rule is made returnable forthwith. Mr.J.P.Yagnik, learned APP waives service for the State. Mr.Harsh Parate waives service for the second Respondent.

2. The Petitioner has challenged the first information report ('FIR') bearing CR No.82 of 2015 registered with Vinoba Bhawe Nagar Police Station, Mumbai on 12 March 2015 for offences punishable under Sections 498A, 323, 506 of Indian Penal Code. The said FIR was registered at the instance of second Respondent.

3. Brief facts, as stated in the FIR, are as follows.

The first informant got married to the accused on 7 November 1993. Out of the said wedlock, three children were born who are aged about 18, 17 and 10 years respectively. It is alleged that the accused demanded money from the first informant which was fulfilled by her parents. There was continuous harassment to the first informant. The accused kept on demanding money from the first informant. She was also abused and assaulted on various occasions. In view of the said harassment, the second Respondent lodged aforesaid FIR.

4. In pursuance of the registration of the FIR, the Police completed the investigation and filed a charge sheet before the Court of Metropolitan Magistrate, 52nd Court, Kurla, Mumbai. The proceedings are numbered as 1875/PW/2015. The second Respondent had also initiated proceedings under Protection of Women from Domestic Violence Act, 2005 ('Domestic Violence Act') before the Court of Metropolitan Magistrate, 52nd Court, at Kurla.

5. Learned counsel appearing for the Petitioner as well as second Respondent submitted that the parties have resolved their differences and arrived at an amicable settlement. It is further submitted that the second Respondent has no objection for quashing the proceedings with her consent. It is also

submitted that the second Respondent had initiated the proceedings under Domestic Violence Act and the same are also settled between both the parties. It is pointed out that consent terms were filed by both the parties in the proceedings under Domestic Violence Act in the concerned Court. In view of the settlement, the said proceedings were withdrawn. The said consent terms are placed on record of this Court. Several terms are stipulated in the aforesaid consent terms. In one of the clauses of the said consent terms, it is mentioned that the second Respondent would give her consent by remaining personally present before the High Court for quashing the criminal proceedings in Criminal Writ Petition No.1682 of 2015. The said consent terms are taken on record and marked "X" for identification.

6. The second Respondent has also tendered an affidavit in this Court dated 20 June 2016. In the said affidavit it is stated that she has arrived at an amicable settlement and has decided to bury the hatchet for the well being of their children. It is also stated that she has filed consent terms before the Metropolitan Magistrate in the proceedings initiated under Domestic Violence Act. It is further stated that she has withdrawn the said proceedings in view of the consent terms. The affidavit further states that in view of the settlement, the second Respondent has no objection for quashing the FIR bearing Cr No.82 of 2015 filed by her. Both parties were present before the Court.

7. We have perused the contents of the petition, the documents annexed to the petition, the consent terms submitted in the proceedings under Domestic Violence Act as well as affidavit tendered by the second Respondent before this Court. We have heard respective parties. It is apparent that the Petitioner and the second Respondent have arrived at an amicable settlement and that the second Respondent has no objection for quashing the proceedings. We have also perused the consent terms submitted before the concerned Magistrate in the proceedings under Domestic Violence Act stipulating the settlement arrived at between the parties. The dispute is purely of matrimonial nature. In view of the settlement between both the parties, the impugned proceedings can be quashed and set aside.

8. In case of *Gian Singh Vs. State of Punjab and another*¹, the Apex Court has held that the disputes which are purely of private nature, the High Court in exercise of its powers, can quash the criminal proceedings in the event of amicable settlement between the parties. The present dispute is purely of matrimonial nature and the parties have settled the dispute in the interest of well being of their children. In the circumstances, we are inclined to allow this petition by quashing the impugned criminal proceedings.

¹ (2012)10-SCC-303

9. Hence, we pass following order :

(a) Rule is made absolute. Criminal proceedings arising out of CR No.82 of 2015 registered with Vinoba Bhave Nagar Police Station for offences punishable under Sections 498A, 323, 506 of Indian Penal Code and consequential criminal proceedings numbered as CC No.1875/PW/2015 pending before the Court of learned Metropolitan Magistrate, 45th Court, Kurla, Mumbai are quashed and set aside;

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

(PRAKASH D. NAIK, J.)

(NARESH H. PATIL, J.)

MST