

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2212 OF 2016

1. Janmohammed Jalaluddin Sheikh,
2. Jalalu Marwadi Sheikh,
3. Mrs.Amina Begum Jalalu Sheikh,
4. Ali Husain @ Guddu Sheikh,
5. Mrs.Khushbu Begum Nizamuddin,
All R/o.Bholanath Chawl, Kranti Nagar,
Akurli Road, Kandivali (East), Mumbai-101

Petitioners

versus

1. The State of Maharashtra
2. Noorjahan Janmohammed Sheikh,
R/o.Nalasopara (E), Palghar.

Respondents

Mr.Narendra Kumar Singh for Petitioners.
Mrs.S.D.Shinde, APP, for State.
Mr.S.P.Batavia for Respondent no.2.

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

DATE : 04 July 2016

PC :

1. Rule. Rule is made returnable forthwith. Learned APP waives service for State. Mr.S.P.Batavia waives service for the second Respondent.

2. The Petitioners have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India and inherent powers under Section 482 of the Code of Criminal Procedure, 1973. The Petitioners have challenged criminal proceedings arising out of C.R.No.I-5/2014 registered with Nalasopara Police Station on 2 January 2014. The said first information report ('FIR') was registered at the instance of second Respondent for offence punishable under Section 498A of the Indian Penal Code. The Petitioners were impleaded as accused. On completing investigation, a charge sheet has been filed and the proceedings are numbered as C.C. No.452 of 2014 and pending in the Court of Judicial Magistrate, First Class, at Vasai. While filing the charge sheet for charge under Section 498A of Indian Penal Code, the charges under Sections 323, 504, 506 read with Section 34 of Indian Penal Code were also invoked.

3. The Petitioners have contended that the dispute between the Petitioners and the second Respondent has been amicably settled and they are seeking quashing of the said proceedings with the consent of both parties.

4. Brief facts, as stated in the FIR, refers to the matrimonial differences between the parties. The marriage between the first Petitioner and second Respondent was solemnised on 12 December 2007 as per Muslim rights and rituals at Uttar

Pradesh. Thereafter they started residing at Mumbai. It is alleged that the accused (Petitioners) had abused and ill-treated the complainant (second Respondent). They also demanded ornaments from the second Respondent. First Petitioner is the husband of the second Respondent. Petitioner nos.2 and 3 are father-in-law and mother-in-law of the second Respondent. Petitioner Nos.4 and 5 are brother-in-law and sister-in-law of the second Respondent. On the basis of the allegations amounting to cruelty, an FIR was registered which was culminated into the charge sheet.

5. Learned counsel for the Petitioners and the second Respondent submitted that the parties have arrived at amicable settlement. It is submitted that on account of the settlement, the Petitioners and the second Respondent have agreed to put an end to the proceedings and, therefore, seeking quashing of the charge sheet by consent of both the parties. The second Respondent has filed an affidavit before this Court dated 4 July 2016. In the said affidavit it is stated that she has settled the issue amicably and she has executed the Deed of Redemption/Khulanama on 24 March 2014 and has separated from the first Petitioner. She has further stated that she has decided to settle the issue and has agreed to withdraw her complaint registered vide CR No.I-5/2014. It is also stated that she is withdrawing the complaint on her own and her decision is not based on any coercion or force. The said affidavit is taken

on record and marked "X" for identification. A copy of Khulanama is annexed to the petition. In the said Khulanama it is stated that on account of differences, it is impossible for the parties to continue their relationship as husband and wife and they have decided to divorce each other. It is further stated that they have duly exchanged all the articles between themselves. The Khulanama further mentions that the marriage between the first Petitioner and second Respondent stands dissolved.

6. We have perused the FIR, statements in the charge sheet, the contents of petition, copy of Khulanama and affidavit of second Respondent dated 4 July 2016. We are satisfied that the parties have genuinely arrived at a settlement and with a view to live a peaceful life, they intend to put an end to the criminal prosecution. It is also noted that the first Petitioner and second Respondent have executed Khulanama and have separated from each other. The differences reflected in the FIR are of individual nature. In view of the circumstances, we are inclined to allow the petition and quash the criminal prosecution.

7. In **Gian Singh Vs. State of Punjab and another**¹, the Apex Court has held that while dealing with the disputes which are of private nature, the High Court may exercise the power under Section 482 of the Code of quashing, in the event the parties arrive at an amicable settlement. We are satisfied that

¹ (2012)10-SCC-303

present dispute arises out of matrimonial differences and is of private nature.

8. In view of the aforesaid circumstances, we pass following order :

(a) Rule is made absolute;

(b) Criminal proceedings in C.C. No.R-452 of 2014 initiated under Sections 498A, 323, 504, 506 read with Section 34 of Indian Penal Code and pending in the Court of Judicial Magistrate, First Class, Vasai arising out of FIR No.I-05/2014 registered with Nalasopara Police Station, stands quashed and set aside;

(c) 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.)