

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2580 OF 2014**

Nirmala Markande Upadhyay ..Petitioner

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. A. Kumar i/by M/s. K.R. Tiwari & Co. for the petitioner.

Mr. A.O. Shukla for respondent no. 3.

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

**CORAM : RANJIT MORE &
V. L. ACHLIYA, JJ.
DATE : 24th FEBRUARY, 2016.**

P. C. :

1. The learned counsel for the petitioner at the outset seeks leave to amend the cause title so as to implead Sandip Upadhyay as party respondent no. 4. Leave is granted. The necessary to be carried out forthwith. Place the matter in afternoon session.

Resumed in the afternoon session:

2. Heard the learned counsel for the respective parties and the learned APP for the State.

3. This writ petition is filed under article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing the criminal proceeding

bearing CC No.1823/PW/2013 pending in the Court of Metropolitan Magistrate, 24th Court, Borivali, Mumbai. The said case arises out of F.I.R. bearing No. 51 of 2012 with the Malad Police Station, at the instance of respondent No.3 against the petitioners and respondent no. 4 for the offences punishable under Sections 498A, 406 read with Section 34 of the Indian Penal Code.

4. Respondent No. 3 and 4 were married in the year 2008. The petitioners are the family members of respondent no. 4. Matrimonial disputes between the parties gave rise to the filing of several criminal cases as well as civil matters. The subject matter of the present petition is one of them.

5. Pending trial, the parties have amicably settled their dispute and in pursuance of an understanding arrived at between them, have approached this Court for quashing of the subject criminal case pending in the Court of Metropolitan Magistrate, 24th Court, Borivali, Mumbai by consent. Respondent No.3 has filed an affidavit on 24/02/2016. In paragraph 4, she has stated that she has no objection if the subject criminal case is quashed. Respondent No.3 is personally present before the Court. She is identified by her Advocate. On being questioned, respondent No.3 has specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection if the subject criminal proceedings are quashed. She also states that she is giving no objection for quashing the subject

criminal case out of free will and without there being any pressure or coercion.

6. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the offence. The offence alleged cannot be said to have any impact on the society. 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 that, 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 criminal case is required to be quashed.

7. Accordingly, the petition is made absolute in terms of prayer clause (a) and is disposed of as such.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]