

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2478 OF 2016

1. Mohammed Furkan Khalil Shaikh,
2. Rehana Khalil Shaikh,
3. Khalil Ahmed Shaikh,
4. Farzana Shaalam Khan,
5. Rizwan Khalil Shaikh
All R/o.Room No.602, `C' Wing,
Gulzar Tower, Jagruti Nagar, Kurla (E), Mumbai

Petitioners

versus

1. State of Maharashtra,
2. Shabeena Furkan Shaikh,
R/o.Mehboob Bhai Chawl, Sunni Jama
Masjid, Jogeshwari, Mumbai-60.

Respondents

Ms.Ruby Shaikh i/by Imran Shaikh for Petitioners.
Mrs.Sangeeta Shinde, APP, for State.
Adv.T.Parakkadan for Respondent no.2.

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

DATE : 4 August 2016

PC :

1. Rule. Rule is made returnable forthwith. Learned APP waives service for State and Advocate T.Parakkadam waives service for Respondent no.2.

2. The Petitioners have challenged the first information report (`FIR') registered with Meghwadi Police Station vide CR No.364 of 2015 on 5 December 2015 for offences under Sections 498a, 406, 323, 504 of Indian Penal Code.

3. The Petitioners are impleaded as accused in the aforesaid FIR which was lodged at the instance of second Respondent. Petitioner no.1 is the husband of second Respondent and Petitioner nos.2 to 5 are the in-laws of the second Respondent.

4. In the FIR, it is alleged that the marriage between the second Respondent/complainant and Petitioner no.1 was solemnized on 15 September 2013. During the marriage, the parents of the complainant had gifted several articles as well as jewellery to the complainant. However, the complainant was ill-treated by the accused. She was abused and assaulted. The accused also demanded money with the complainant. Hence, a complaint was lodged at the instance of complainant with the concerned police station on 17 November 2015 on the basis of which FIR was registered on 5 December 2015 for the aforesaid offences.

5. Petitioner no.1 had filed a petition before Family Court being Petition No.A-1570/2015 for restitution of conjugal rights against the second Respondent. The second Respondent filed petition for maintenance bearing No.D-51/2016 before the same Court. She also initiated proceedings under Protection of Women from Domestic Violence Act, 2005 bearing No.46/DV/2016 before the concerned Court.

6. Learned counsel for Petitioners and second Respondent submitted that there is reconciliation between the parties and with a view to maintain harmonious relationship, they are seeking quashing

of the impugned FIR. In the petition, it is stated that the relation between Petitioner no.1 and second Respondent have improved. they have mutually settled the dispute after the proceedings referred to hereinabove were forwarded to the counselor. It is further stated that Petitioner no.1 and the second Respondent have executed consent terms and thereafter the second Respondent has withdrawn the proceedings initiated by her under Domestic Violence Act. The said consent terms are annexed to the petition. In the said consent terms, it is stated that the Petitioner no.1 and the second Respondent have decided to stay together subject to certain terms and conditions stipulated therein. It is also mentioned that the complainant withdrew the proceedings initiated by her. The second Respondent has also tendered an affidavit before this Court. In the said affidavit, it is stated that due to efforts of the elder members of family from both sides, they had settled their matrimonial disputes and had agreed to cohabit as husband and wife under the same roof and both of them do not wish to prosecute the cases initiated by both of them against each other. She has also consented for withdrawal of the FIR registered at her instance against Petitioner no.1 and his family members and prayed that the petition be allowed.

7. We have heard both the parties and also perused the documents on record. It is noted that there is reconciliation between the parties and Petitioner no.1 and second Respondent have decided to cohabit together. The consent terms were executed and complainant has tendered an affidavit in support of the Petitioners. The dispute is of matrimonial nature and it is appreciated that parties have put an end to the dispute and decided to stay under one

roof. In view of the circumstances, we are inclined to allow this petition.

8. Hence, we pass following order :

(a) Rule is made absolute;

(b) FIR dated 5 December 2015 registered with Meghwadi Police Station vide CR No.364 of 2015 for offences under Sections 498A, 406, 323, 504 of Indian Penal Code is hereby quashed and set aside;

(c) All concerned to act on a copy of this order duly authenticated by registry of this Court.

(PRAKASH D. NAIK, J.) (NARESH H. PATIL, J.)

MST