

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 629 OF 2017

Mr. Nilesh Suresh Sarmalkar & Ors. ... Petitioners
Vs.
State of Maharashtra & Anr. ... Respondents

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Mr. Prasad D. Borkar for the Petitioners.
Smt. S. V. Sonawane, APP for Respondent-State.
Mr. Sanjay P. Kapse for Respondent No.2.

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**CORAM : S. C. DHARMADHIKARI &
PRAKASH D. NAIK, JJ.**

DATE : APRIL 13, 2017.

P.C. :

1. This petition under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973, seeks the following relief:

“(a) That Criminal Complaint No.1813/PW/2013 (arising out of Crime No.66 of 2013) registered by Respondent No.1, Mahim Police Station and now pending before the ld. Additional Chief Metropolitan Magistrate's 09th Court at Bandra, Mumbai against the Petitioners for offences under Sections 498A, 354, 506(II), 406, 323, 34 of the Indian Penal Code be quashed against the Petitioners.”

2. It is stated that the F.I.R. was registered on 2nd February, 2013 (66 of 2013) with Mahim Police Station, Mumbai.

3. The offences alleged are punishable under Sections 498A, 354, 506(II), 406, 323 and 34 of the Indian Penal Code.

4. It is stated that from 27th April 2012 to 25th August 2012, the complainant wife suffered, at the hands of her husband and in-laws, such harassment as is narrated in great details in her statement.

5. The harassment continued and that is why the complainant was forced to return to her parental home. From that time, she has been residing with her parents. Her father is a retired B.M.C. employee and she has no earning. She has, apart from this F.I.R. and the quashing proceedings before this Court, to face matrimonial proceedings in the Family Court and prosecute those under The Protection of Women from Domestic Violence Act, 2005.

6. She is present before this Court and makes a statement that the affidavit recording her consent for quashing of this proceeding correctly sets out all the facts and developments. She has understood the consequences of granting such consent. She states that the consent is free and not vitiated in law. There is no undue influence or coercion, but simply, interest of her parents and herself at mind. She says that nothing fruitful will emerge from the relationship after she has not cohabited with the 1st petitioner since August 2012.

7. It is stated that in the Family Court also, the parties have agreed for a decree of dissolution of marriage by mutual consent.

She, therefore, submits that the criminal prosecution be quashed. She submits that the affidavit be accepted.

8. In the peculiar facts of this case, and moved by the plight of the complainant and she confirming every statement made on affidavit, we proceed on the footing that the private disputes between the petitioner and the 2nd respondent are resolved. No larger interest of the society would be adversely affected in the event we accept the arrangement proposed by the parties. In the circumstances, we exercise our inherent powers and grant relief. The Writ Petition is made absolute in terms of prayer clause (a).

(PRAKASH D. NAIK, J.)

(S. C. DHARMADHIKARI, J.)