

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.3730 OF 2016

Kushmeett Singh Sahni & Ors.

.... Petitioners

versus

The State of Maharashtra & Anr.

... Respondents

.....

- Mr.H.S. Anand, Advocate for the Petitioner.
- Mr.N.B. Patil, APP for the State/Respondent.
- Ms.Ranjita Kausalkar, Advocate for the Respondent No.2.

**CORAM : RANJIT MORE &
SARANG V. KOTWAL, JJ.
DATE : 05th JULY, 2017.**

P.C. :

1. Heard the learned counsel for the applicant, respondent No.2 and learned APP.

2. The petition is filed under Article 226 of the Constitution of India read with section 482 of the Code of Criminal Procedure, 1973, for quashing and setting aside FIR bearing C.R.No.439/16, registered with Oshiwara Police Station, Mumbai. The said FIR is registered against the petitioner at the

instance of respondent No.2 for the offences punishable u/s 498-A, 323, 342, 406, 506-II, 504, 506, 354 r/w 34 of the Indian Penal Code.

3. The petitioner and the respondent No.2 got married on 29/11/2014. The petitioner Nos.2 to 6 are the relatives of the petitioner No.1. The matrimonial dispute between the parties gave rise to criminal proceedings and the subject FIR came to be registered. With the help of well wishers, family, relatives and friends, the parties resolved their dispute amicably and in view of the settlement filed consent terms dated 26/09/2016 before this Court. The copy of the same is annexed at Ex.D at page No.38 of the petition. This Court by an order dated 26/10/2016 allowed the petitioners to deposit an amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) without prejudice to the rights and contention of the parties. The respondent No.2 is entitled to withdraw this amount once the subject FIR is quashed. Under the consent terms, the parties agreed to obtain divorce by mutual consent. The parties accordingly approached Family Court at Bandra for filing petition No.F-2787/16 and got their marriage dissolved by an decree dated 30/06/2017. By the said decree, the consent terms referred above are also directed to be formed part of the decree.

4. In the above circumstances, the respective counsel submit that the proceedings and subject FIR may be quashed. The respondent No.2 has filed an affidavit dated 04/07/2017, wherein she has stated that the said consent terms are complied with and therefore she has given no objection to quash the subject proceedings. The operative part of the order in Family Court petition No.F-2787/16 dated 30/06/2017 is annexed herein.
5. The respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has gone through the affidavit and has fully understood the contents thereof and has no objection, if the subject FIR is quashed and set aside. The petitioner No.1 is also present in the Court. He submits that he has no objection if the respondent No.2 withdraws the abovesaid deposited amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) alongwith interest accrued thereon. The statement is accepted.
6. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances, and especially, in view of the law laid down by

the Apex Court in the case of **B.S. Joshi vs. State of Haryana** **AIR 2003 SC 1386**, we are of the view that quashing of the FIR would be in the interest of respondent No.2. Besides, 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 FIR is required to be quashed. The petition is, accordingly, made absolute in terms of prayer clause (a).

7. The Respondent No.2 is at liberty to apply to the Registry for withdrawal of the amount of Rs.30,00,000/- (Rupees Thirty Lakhs only) deposited by petitioner No.1 alongwith interest accrued thereon.
8. The Registry is directed to refund the said amount to the respondent No.2 after verifying her identity.
9. The Writ Petition is disposed off as such.

(SARANG V. KOTWAL, J.)

(RANJIT MORE, J.)