

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

WRIT PETITION NO.5249 OF 2017

Sharan S. Desai and ors. ... Petitioners

V/s.

State of Maharashtra and anr. ... Respondents

Ms.Manjula Rao for the Petitioners.

Mr.V.B.Konde-Deshmukh, APP for Respondent No.1-State.

Mr.Santosh Pawar for Respondent No.2.

**CORAM : NARESH H. PATIL AND
NITIN W. SAMBRE, JJ.**

DATE : DECEMBER 19, 2017.

P.C.(PER NITIN W.SAMBRE,J.) :

. This petition is by husband and his parents seeking quashing of Crime No.17 of 2013 pursuant to which prosecution is pending in the court of 40th Metropolitan Magistrate, Girgaon, vide Criminal Case No.329 of 2014.

2. Petitioner No.1 was married to Respondent No.2 at Delhi on November 25, 2005 and are blessed with 9 years old daughter.

3. Petitioner Nos.2 and 3 are the parents of Petitioner No.1 and in-laws of Respondent No. 2. Respondent No. 2 on March 1, 2013

lodged a complaint against all the Petitioners alleging demand of dowry and other valuable articles, treating Respondent No. 2 with cruelty resulting into registration of Crime No.17 of 2013 with non-applicant No.1-Respondent No.1 for an offence punishable under Sections 498A, 406, 504, 506(2) r/w 34 of the Indian Penal Code. The Petitioners have sought quashing of the same by consent, through the present proceedings. Pursuant to the registration of crime, investigation was carried out, the Petitioners are charge-sheeted and Criminal Case No.329 of 2014 is pending on the file of 40th Metropolitan Magistrate, Girgaon, Mumbai. The learned counsel for the Petitioners would invite attention of this court to the consent terms presented in Petition No.A-2181 of 2013 with Petition No.C-4 of 2013 with Petition No.D-106 of 2015, so as to claim that the Petitioners have paid one time alimony of Rs.1.5 crores to Respondent No.2. It is also brought to our notice that Petitioner No.1 and Respondent No. 2 respectively has agreed to bear 50% of the expenses towards maintenance and upbringing of the minor daughter.

4. It is also brought to our notice that the parties have agreed

to withdraw all the proceedings initiated by the parties inter-se including that of criminal proceedings will be withdrawn/quashed.

5. The Petitioners have also produced on record the copy of the receipt towards payment of amount of Rs.1.5 crores towards permanent alimony.

6. Respondent No.2 is personally present before this court and is identified by her lawyer.

7. She is also accompanied with her mother.

8. Respondent No. 2 also agreed to the consent terms which are produced on record and submits that she has no objection for quashing the proceedings by allowing the present petition in terms of prayer clause (a).

9. Considered rival submissions. It is borne from the record and proceedings that the present proceedings are arising out of matrimonial discord.

10. Even though appropriate chalan is filed against the Petitioners before the court of Metropolitan Magistrate, the fact remains that there are no serious injuries suffered by either of the parties in crime in question. Upbringing of the minor child is of paramount importance and Petitioner No. 1 and Respondent No. 2 have agreed for her proper upbringing. It is this cause and the fact that there should be harmonious relations on the issue of upbringing of child between the parties which prompted us to allow this petition.

11. One more aspect of which this court must take note of is, the Petitioner No.1 and Respondent No.2 have agreed to part their ways and no fruitful purpose will be served in continuing the prosecution as there are blink chances of the Petitioners being getting convicted in the crime in question. In view thereof, the present Writ Petition is allowed in terms of prayer clause (a), which reads thus:-

“That The Case pending before 40th Metropolitan Magistrate Girgaum Mumbai being case no 329/2014

registered under FIR No.17/2013 by Malbar Hill Police Station, pending before the Ld. Magistrate, 40th Court Girgaum Mumbai be quashed as the same has been settled in terms of the Consent Terms dated 10th August, 2017.”

(NITIN W. SAMBRE, J.)

(NARESH H. PATIL, J.)

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