

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.982 OF 2018

Ganesh Shantaram Yendhe and ors .. Petitioners
Versus
The State of Maharashtra and ors .. Respondents

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Ms.Meghna Gwalani i/b Pratibha Borade for the petitioners.
Mr.Tushar V. Dube for respondent no.2.
Mrs.P.P. Shinde, APP for the State.

CORAM: SHRI RANJIT MORE &
SMT. BHARATI H.DANGRE, JJ.

DATED : 17th SEPTEMBER 2018

P.C:-

1 Leave to amend to give particulars of the criminal case number in the prayer clause. Necessary amendment shall be carried out forthwith.

2 Heard learned counsel for the petitioners, learned counsel for the respondent no.2 and learned APP appearing for the State.

3 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 No 576 of 2018 registered with Vartak Nagar Police Station, at the instance of respondent No.2, for the offences punishable under Sections 498A, 406 read with Section 34 Indian Penal Code, 1860.

4 The petitioner no.1 and respondent no.2 were husband and wife. Rest of the applicants are the in-laws of the respondent No.2. Marital dispute between the parties gave rise to filing of several criminal as well as civil cases. The subject matter of the present petition is one of them.

5 Pending investigation, the parties, however, have settled their dispute amicably, and in pursuance of an understanding arrived at between them, have approached this Court for quashing and setting aside the subject FIR by consent. Respondent No.2 has filed consent terms in Marriage Petition No.F-421 of 2018 before the Family Court at Bandra. In terms

of the consent terms, marriage between the petitioner no.1 and respondent no.2 is already dissolved under section 13B of the Hindu Marriage Act by decree dated 29th August 2018. The present petition is also filed in terms of the agreement arrived at between the parties for quashing the proceedings of the subject FIR by consent.

6 The respondent no.2 has filed an affidavit dated 17th September 2018. In paragraph no.8 of the said affidavit, the respondent no.2 has made a statement that it would be just, proper and equitable and in the interest of justice, proceedings of the subject FIR may be quashed and set aside. The parties, especially the respondent no.2 are present before the Court. It shows that the petitioner No.1 and respondent No.2 has taken Divorce by mutual consent.

7 The respondent no.2 is specifically asked that whether she has gone through the affidavit and has understood the contents thereof. She answers in the positive and states that she has no objection if the subject FIR is

quashed and set-aside. She has further confirmed that that she is giving no objection for quashing the said FIR out of free will and without there being any pressure or coercion.

8 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 versus 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 (b) and is disposed of as such.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

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Tilak

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