

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 999 OF 2014

Vishal Rajendra Chauhan. ..Petitioner.

Versus

Padma Singh Amit Chauhan and Another. ..Respondents.

Mr. S. V. Marwadi I/b K. S. Garg for the Petitioner.

Ms. S. D. Shinde, APP for the Respondent-State.

Mr. M. M. Gadkari for Respondent No. 1.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : September 18, 2018.

P. C. :

1. Heard the learned counsel for the Petitioner, the learned counsel for Respondent No.1 and learned APP for the Respondent-State.

2. The petition is filed seeking to quash the FIR bearing CR. No. 250 of 2013 registered with Vimantal Police Station, Pune City, Pune. The said FIR is registered at the instance of Respondent No.1 wherein the allegations levelled against the Petitioner are of commission of the offence punishable under sections 420, 406 and 417 of the Indian Penal Code, 1860.

3. The Petitioner is brother of 1st respondent's husband. The allegations against the Petitioner in the subject FIR is to the effect

that he made misrepresentation to Respondent No.1 about the educational qualification and earning capacity of his brother and on the basis of such misrepresentation, she got married with the brother of Petitioner. Respondent No.1 had also filed an FIR against her husband, the Petitioner, and mother of the Petitioner alleging commission of the offence punishable under section 498A of IPC.

4. The learned counsel for the respective parties submitted that pending investigation parties have settled their disputes amicably. In a proceedings between Respondent No.1 and her husband, i.e., the Petitioner's brother, the parties have filed consent terms [i.e., the Petition bearing No. PA-303 of 2017 before the Family Court at Pune]. Under the said consent terms, parties have agreed to take divorce by mutual consent. The learned counsel for the respective parties submitted that in terms of the understanding arrived at between the parties, the Petitioner, his brother (husband of Respondent No. 1) and the Petitioner's mother filed a proceeding before the High Court of Gujarat for quashing the FIR against them registered for the offence punishable under section 498A of IPC at the instance of Respondent No.1 and this FIR is quashed upon consent being given by Respondent No. 1.

5. So far the present FIR is concerned, in terms of the understanding arrived at between the parties, they have approached this Court for quashing the same by consent of Respondent No. 1.

Respondent No.1 has accordingly filed an affidavit in this Court, being affidavit dated 3rd September 2018. She has also placed on record copy of the consent terms entered into between the parties. In paragraph 5 of her affidavit, Respondent No. 1 has given no objection to quash the subject FIR against the Petitioner.

6. Respondent No.1 is personally present before the Court. On specific query made by us, she submitted that she has made the said affidavit on her own free will, without there being any pressure or undue influence. She has further confirmed that she has no objection for quashing the subject FIR registered at her instance against the Petitioner.

7. It can, thus, be seen that the matter has been amicably settled between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the subject FIR alive except ultimately burdening the Criminal Courts which are already overburdened.

8. In the light of the principles laid down by the Apex Court

in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065] we are of the considered view that there is no impediment in quashing the subject FIR. Accordingly, petition is made absolute in terms of prayer clause (b). In the facts and circumstances of the case it would be appropriate to saddle the Petitioner with the cost of Rs.5,000/-, which shall be paid to “**Tata Memorial Hospital**” an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within the period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings/FIR shall be treated as *non-est*. Registry will then intimate the concerned Police Station that subject FIR shall not be treated to have been quashed and that police / Magistrate shall proceed against the Petitioners in accordance with law.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]