

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

CRIMINAL WRIT PETITION NO.1514 OF 2018

Jaydeep Mahadeo Katke : Petitioner
versus
The State of Maharashtra and anr. : Respondents.

**ALONG WITH
CRIMINAL WRIT PETITION NO.1519 OF 2018**

Jaydeep Mahadeo Katke : Petitioner
versus
The State of Maharashtra and anr. : Respondents.

Mr. Jai Prakash Mishra for the Petitioner.
Mr. Ajay Patil, APP for the Respondent/State in Writ Petition No.1514 of 2018.
Mrs. M M Deshmukh, Addl. PP for the Respondent/State in Writ Petition No.1519 of 2018.
Mr. Manish Dubey for the Respondent No.2.
PI Mr. Kailas Bondre of Dharavi Police Station present.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.**
DATE : 18th APRIL 2018

P.C.

1 The above Writ Petition No.1514 of 2018 has been filed for quashing of the FIR being No.31/2018 registered with Dharavi Police Station for the offences punishable under Sections 376(B) and 377 of the Indian Penal Code.

2 In so far as the above Writ Petition No.1519 of 2018 is concerned, the same has been filed for quashing of the FIR being No.41/2018 (wrongly

mentioned as FIR No.31/18) registered with Dharavi Police Station for the offences punishable under Sections 324, 323, 504 of the Indian Penal Code.

3 The Petitioner and the Respondent No.2 were husband and wife who have been granted divorce by mutual consent by the judgment and order dated 21/08/2017 passed by the Family Court No.3, Mumbai. The instant FIR No.31/2018 has been registered on 17/01/2018 and the FIR No.41/2018 has been registered on 20/01/2018 with the Dharavi Police Station i.e. after a period of about 4 months after the decree of divorce was granted.

4 The quashing of the instant FIRs is sought by consent. We are informed by the learned Additional Public Prosecutor that the Respondent No.2 had earlier registered an FIR being No.153/2016 with the same police station on 14/04/2016 for the offences punishable under Sections 498A, 323, 504, 506, 406, 34 of the Indian Penal Code. The said FIR came to be quashed by a Division Bench of this Court by order dated 21/09/2016 as the parties claimed that the dispute between the Petitioner and the Respondent No.2 was settled through mediation of elders in the family as recorded in paragraph 4 of the said order dated 21/09/2016. It is thereafter that the instant FIRs have been lodged by the Respondent No.2 of which as indicated above quashing is sought by consent.

5 The aforesaid facts disclose that the Respondent No.2 has been utilizing the police machinery to make allegations against the husband who is now her ex-husband. The parties are also approaching this Court from time to time for quashing which borders on the same being an abuse of the process of this Court as the Respondent No.2 is filing the FIRs and then coming forward with the Petitioner for quashing the same on the basis of consent.

6 Having regard to the conduct of the parties as above, we decline to exercise our writ jurisdiction for quashing of the FIRs in question by consent. The said conclusion we have arrived at as indicated above on the basis of the conduct of the parties as also having regard to the fact that the offences alleged against the Petitioner is one punishable under Section 376 of the Indian Penal Code which is considered to be an offence against society. We are also of the view that the filing of the FIRs and invocation of the jurisdiction of this Court prima facie appears to be an abuse of process of Court. The above Writ Petitions are accordingly dismissed. The Petitioner to deposit costs of Rs.10,000/- with the State Legal Aid Fund within six weeks from date. Receipt to be obtained and filed in the Registry of this Court.

[SARANG V. KOTWAL, J]

[R.M.SAVANT, J]