

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.870 of 2018

Omar Sahani Bilal Shaikh and ors .. Applicants

Versus

The State of Maharashtra & ors .. Respondents

...

Mr. R.A.Shaikh i/b Mohd.M. Khan for the applicant.

Mrs.P.P. Shinde, APP for the State.

Ms.Asma Waseem Shaikh respondent no.2 present.

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

DATED : 23rd AUGUST 2018

P.C:-

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

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 No.268 of 2018 registered with Parksite Police Station, at the instance of respondent

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No.2, for the offences punishable under Sections 498A, 406, 494 read with Section 34 Indian Penal Code, 1860.

3 The applicant No.1 was married to respondent No.2 on 5th September 2014. 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.

4 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 an affidavit dated 24th July 2018. The affidavit refers to the consent terms arrived at between the parties in Criminal Appeal No.360 of 2018 in which parties agreed to quash the proceedings of the subject FIR by consent. In paragraph no.17 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. The

respondent no.2, on specific query, states that she has received Rs.13,00,000/- (Rupees Thirteen Lakhs) from the applicant no.1 by way of full and final settlement of her claim. The applicant has also along with her affidavit, annexed the copy of the *Khulanama*. It shows that the applicant No.1 and respondent No.2 has taken Divorce by mutual consent. The applicant no.1 and respondent no.2 on query state that they are now living separately and the custody of the minor son is with respondent no.2.

5 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.

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 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 application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

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