

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 907 OF 2018

Rizwan Usman Petiwala and ors.Applicants
versus
The State of Maharashtra and anr.Respondents

Mr. A. N. Pathan, advocate for the applicant.
Ms. Sangeeta D. Shinde, APP for the State.
Mr. Wasim Ansari, advocate for the respondent No.2.

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

DATE : 18th SEPTEMBER, 2018.

P. C. :

Heard learned counsel and learned APP appearing for the respective parties.

2. The application is filed for quashing the proceedings of the criminal case No.14/PW/2017 pending on the file of learned Metropolitan Magistrate, 9th Court at Bandra. The said case arises out of registration of FIR bearing CR No.481 of 2015 with Mahim Police Station, at the instance of the respondent No.2, for the offences punishable under sections 498A, 406, 323, 504, 506 read with section 34 of the Indian Penal Code, 1860 and sections 3 and 4 of Dowry Prohibition Act, 1961.

3. The applicant No.1 and respondent No.2 are husband and wife. Rest of the applicants are the relatives of the applicant No.1 and

in-laws of the respondent No.2. Matrimonial discord between the parties gave rise to registration of the subject FIR, which was investigated and thereafter, charge-sheet was filed and the same was numbered as criminal case No.14/PW/2017.

4. Pending trial, the parties settled their dispute amicably with the intervention of the elders and well-wishers and, accordingly, entered into consent terms dated 12th September, 2018. The said consent terms are taken on record. The consent terms are signed by the applicant, respondent No.2 and their respective counsel. By the said consent terms, the parties have agreed to settle all the differences amongst them, on the following terms and conditions :

a. That the party of the Second part does not wish to pursue the case filed by her against the party of the First part vide C.R.No.481/2015 with Mahim Police Station for offences punishable under Sections 498A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code against the party of the First part. At present, the case is pending before the Id.Metropolitan Magistrate's 9th court, Bandra being C.C.No.14/PW/2017 and has no objection if the case is quashed by the Honorable High Court and the party of the First part is acquitted.

b. That the party of the Second part has no claims against the party of the First part and more so that

she does not wish to pursue the case and investigation be treated as closed.

c. That both the parties are mediated through common friends and they have decided to live in peace and harmony without raising any issued of past differences of whatsoever nature and have agreed to settle all their differences.

d. That the husband of the Respondent No.2, agreed to execute a divorce deed mutually. That both the parties have agreed to not to file any other civil or criminal case, FIR, complaint, case, suit against each other in future.

e. That both the parties mutually agreed not to claim any movable or immovable properties from each other. It is further agreed that both the parties shall not interfere in each other's live directly or indirectly.

f. That Second party has received amount of Rs.3,00,000/- via DD No.032196 drawn on ICICI Bank Mumbai towards permanent alimony from the First party and also received all belonging as per list provided by Second Party to the First party.

g. That the party of the Second part also shall have no claims against the party of the First part of

whatsoever nature after signing of this consent terms and furthermore she will not initiate any proceedings as regards the FIR lodged by the party of the Second part.

h. That the party of the Second part shall co-operate with the party of the First part if at all the party of the First part approaches the Honorable High Court for quashing of the case filed by the party of the First part.

Both the parties have agreed to abide by the aforesaid terms and conditions. Accordingly, the undertaking given in the consent terms is accepted.

5. The respondent No.2 has also independently filed an affidavit dated 12th September, 2018. In this affidavit, she has made a reference to the above consent terms. In paragraph 3 of the affidavit, she has stated that she has received an amount of Rs.3,00,000/- by demand draft towards permanent alimony from the applicant No.1. She has also stated that she has received all her ornaments from the applicants and that she has no grudge or ill-feelings towards the applicants. In paragraph 5, she has given her no objection for quashing the proceedings of the subject criminal case. The respondent No.2 is personally present before the Court. On being questioned, she specifically

stated that she has gone through the petition, consent terms and affidavit as well and has fully understood the contents thereof. She has further confirmed that that she has given her no objection for quashing the proceedings of the subject criminal case out of her own free will and without there being any pressure or coercion.

6. Both, the applicant No.1 and respondent No.2, who are present before the Court, stated that during the course of the day, Khulanama would be executed between them. This statement is also accepted.

7. 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 criminal case 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 proceedings of the subject criminal case are required to be quashed. The criminal application is, accordingly, made absolute in terms of prayer clause (d) and is disposed of as such.

[SMT.BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]