

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

CRIMINAL APPLICATION NO.972 OF 2018

Ranjeet Harjith Bubber & Ors.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

Mr.Dinesh Kumar Seth i/b Mr.Mehul A. Rathod for the Applicants

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

Mr.P. Daruwala a/w N.Vora i/b Mulla and Mulla and CB & C for
Respondent No.2.

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

DATE : 29th AUGUST 2018

P.C.

1. Heard learned counsel for the applicant and respondent
No.2 and learned APP for the Respondent-State.

2. The petition is filed for quashing and setting aside the
FIR bearing CR No.15 of 2018 registered with Agripada Police
Station, Mumbai at the instance of Respondent No.2 for offences
punishable under Sections 498-A, 406 and 506 of the Indian Penal
Code.

3. The applicant No.1 and respondent No.2 are the husband and wife. Applicant No.2 and 3 are the parents of the applicant No.1. The matrimonial discord between the parties gave rise to filing Civil as well as Criminal proceedings. The subject FIR is one of them.

4. During the pendency of all the aforesaid legal proceedings, the elders of the family members of the respective parties intervene all the disputes between the parties were mutually settled. Accordingly consent terms came to be executed between applicant No.1 and respondent No.2 on 18.07.2018, which were filed before the Hon'ble Family Court, Bandra, Mumbai in M.J. Petition No.A-2017 of 2017. The said consent terms are at Exh.'C' at page 22 of the present petition.

Under the consent terms it is agreed that the applicant shall pay to the respondent No.2 a sum of Rs.1,25,00,000/- (Rupees One Crore and Twenty Five Lakhs Only) towards full and final settlement of all her claims. It is agreed that the said amount will be paid vide Demand Draft drawn in the name of the respondent at the time of the passing of the decree of divorce i.e. on or before 31st August 2018. It is further agreed that on receipt of the said amount, the respondent shall have no claims of whatsoever nature against

the applicants for past, present or future. A statement is made by the learned counsel for the applicant as well as respondent No.2 that the proceedings before the Family Court are scheduled for hearing on 31.08.2018 and on that day a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act would be granted.

5. The respondent No.1 has also filed a separate affidavit dated 13.08.2018. In paragraph No.2 she has made statement that dispute between the parties is mutually settled. In paragraph No.5 she has given no objection to quash the subject FIR. The respondent No.2 is personally present in the Court on specific query she stated that she had gone through the copy of the application, consent terms as well as affidavit referred above and she has understood the contents. She also stated that since dispute between herself and applicant is settled. She has no objection to quash the subject FIR. She further stated that she is given no objection on her own will and without their being any force or coercion.

5. 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 *Narinder Singh and Ors. v/s. State of Punjab and Anr.*¹, when the continuity of the criminal proceedings would be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored, securing the ends of justice being ultimate guiding factor. In the present case the parties have decided to part their ways amicably and had decided by consent the terms and conditions for their separation. The parties have also agreed to abide by the said terms and conditions which have been settled amongst themselves and have decided to move ahead in life. We are of the opinion that the said decision of the parties need to be respected as two matured persons, with their free consent has arrived at such decision. The matrimonial discord which had give rise to filing of the First Information Report has now been put to raise and both the applicant No.1 and respondent No.2 have decided to follow their own paths. Necessary arrangements for the maintenance of respondent No.2 have been duly incorporated in the consent terms.

In such circumstances we are inclined to allow the Writ Petition and quash the FIR in CR No.15 of 2018 registered with Agripada Police Station for offences punishable under Sections

1 (2014 AIR SCW 2065)

498(A), 406 and 506 read of the Indian Penal Code. No order as to costs.

6. At this stage the learned counsel for respective parties point out that the ornaments of applicant are seized by Police Inspector of Agripada Police Station, Mumbai under Panchnamma dated 26.05.2018 which is read as under:-

<u>Sr.No.</u>	<u>Ornaments Description</u>	<u>Amount</u>
1	Rubi and Diamond Braslet	Rs.3,00,000/-
2	Two Gold and Kundan (Indian Gems Stone) Zhumka	Rs.2,50,000/-
3	One Gold and Kundan (Indian Gems Stone) Neckless and Earring	Rs.3,50,000/-
4	Five Gold Coins Total 40 Gram	Rs.1,01,000/-
5	Pair of Dimond Coufling	Rs.0,82,000/-
6	40 Gram Gold Chain	Rs.1,25,000/-
7	90 Gram Gold Chain (With Gold Coin)	Rs.3,50,000/-
8	Pair of Diamond Ring	Rs.2,20,000/-
9	Gold Kundan Set (Neckless and Earrings)	Rs.3,00,000/-
	Total	Rs.20,78,000/-

7. The learned counsel for respective parties invited out attention to clause 9 of the consent terms which read as follows :-

“9. The parties hereto agree and declare that following the quashing of the FIR, by the Hon'ble Bombay High Court, they shall make a joint application to the Agripada

Police Station/Metropolitan Magistrate, 46th Court at Sewree, Mumbai to enable the Petitioner to take in his possession the jewellery which is deposited with the agripada Police Station. On receiving the jewellery from the said police station, both the parties shall verify the jewellery as per the list and keep the same in a sealed envelope signed by both the parties and their lawyers. The said sealed jewellery shall be kept in escrow with the Respondent's lawyer Mr.Parvez Daruwala who will hold the same and the same will be handed over to the Respondent at the time of vacating the premises on or before 31st August 2018.”

8. In terms of the agreement referred herein above, and since we have already quashed the subject FIR we direct the Agripada Police Station, Mumbai to handover to the applicant No.2 the above referred ornaments on or before 31st August 2018. The parties i.e. the applicants and respondent No.2 thereafter abide by the Clause No.9 referred above in consent terms referred herein above. All parties to act on authenticated copy of this order.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)

Nilam
Santosh
Kamble

Digitally signed by
Nilam Santosh
Kamble
Date: 2018.08.29
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