

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3749 of 2018

Harsh Jawahaar Kalra and ors.Petitioners
versus
Sweety Harsh Kalra and anr.Respondents

Mr. Hrishikesh G. Amembal, advocate for the petitioners.
Ms. Laxmi P. Rao, advocate for the respondent No.1.
Mr. F. R. Shaikh, APP for the State.

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

DATE : 12th SEPTEMBER, 2018.

P. C. :

Learned counsel for the petitioners, at the outset, seeks leave to amend the prayer clause of the petition so as to give particulars about the criminal case. Leave as prayed for, is granted. Necessary amendment be carried out forthwith.

2. Heard learned counsel for the petitioners, respondent No.1 and learned AGP for the State.

3. The petition is filed for quashing and setting-aside the proceedings of criminal case No.1503/PW/2018 pending on the file of learned Metropolitan Magistrate, 44th Court at Andheri. The said case arises out of registration of the FIR bearing CR No. 122 of 2017 with

Versova Police Station, at the instance of the respondent No.1 for the offences punishable under sections 498-A , 406 read with section 34 of the Indian Penal Code, 1860.

4, The petitioner No.1 and respondent No.1 got married on 24th April, 2012. The petitioner No.2 is the mother and petitioner No.3 is the sister of the petitioner No.1. Matrimonial dispute between the parties gave rise to filing of the subject FIR as well as civil proceedings. Pending trial of the subject criminal proceedings, the parties, however, decided to settle the dispute amicably with the intervention of the elders and well wishers and, accordingly, they have filed consent terms before the 5th Family Court at Bandra in MJP No.A-426 of 2017. By this consent terms, the petitioner No.1 and respondent No.1 agreed to convert the said petition into petition for divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955. Under the said consent terms, the respondent No.1 has agreed to accept an amount of Rs.15,00,000/- from the petitioner No.1 by way of full and final settlement of all her claims. In pursuance of this consent terms, the respondent No.1's jewellery was handed over to her by the petitioners. A decree of divorce was also granted on 30th August, 2018 and now the marriage between the petitioner No.1 and the respondent No.1 stands dissolved. In pursuance of the said consent terms, a demand draft bearing No.000645 drawn on

ICICI Bank for the amount of Rs.15,00,000/- was given to the respondent No.1's advocate for handing over the same to the respondent No.1 on quashing of the proceedings of the subject criminal case. Accordingly, learned counsel for the respondent No.1 has handed over the said demand draft to the respondent No.1 in the Court. The respondent No.1 has also filed an affidavit dated 23rd August, 2018. Whatever stated hereinabove is reiterated in the said affidavit. In paragraph 5, she has given her no objection for quashing the proceedings of the subject criminal case. The respondent No.1 is personally present before the Court. On being questioned, she specifically stated that she has gone through the petition and the affidavit as well and has fully understood the contents thereof. She has further confirmed that that she has given no objection for quashing the subject criminal case out of her own free will and without there being any pressure 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 **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that quashing of the proceedings of the criminal case would be in the interest of respondent No.1. 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 and set-aside. The petition is, accordingly, made absolute in terms of prayer clause (b) and is disposed of as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]