

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4598 OF 2017**

Sabira Pyar Mohammed Khan

..Petitioner

Vs.

The State of Maharashtra & Anr

..Respondents

Mr. M. H. Mulla for the Petitioner

Mr. K. V. Saste Addl PP for the Respondent State

Mr. U. L. Singh for the Respondent Nos.2 and 3

**CORAM :R. M. SAVANT, &
SANDEEP K SHINDE,JJ
DATE : 10th JANUARY, 2018**

P.C.

1 At the outset, the Learned Counsel for the Petitioner seeks leave to amend so as to correct the prayer clause (b). Leave granted. Amendment to be carried out forthwith.

2 The above Writ Petition has been filed for quashing of the FIR bearing No.487 of 2017 with the Sakinaka Police Station for the offences punishable under Section 307 of the IPC. The Petitioner herein is the wife of the Respondent No.3 who is the husband. The Respondent No.3 is a taxi driver and the Respondent No.2 is the neighbour of the Respondent No.3 and the Petitioner, by whom the FIR has been lodged against the Petitioner for having assaulted the Respondent No.3 with a knife. The papers annexed to the above Petition prima facie discloses that the Petitioner is suffering from

paranoid schizophrenia and that she was under treatment for the said condition at the same contemporaneous time as when the incident took place. The investigation papers produced by the Learned Additional PP also indicate the nature of the wound suffered by the Respondent No.3.

3 The Respondent No.3 is personally present in Court. He is still under treatment for the injury that was caused to him on account of the assault on him by knife made by the Petitioner who is his wife. We are informed by the Learned Counsel appearing on his behalf that he has to be fed fluids through a pipe which he is wearing and has carried to this court. From the look of the Respondent No.3 it appears that he has not fully recovered from the injury that he is suffered on account of the attack by the Petitioner. The Respondent No.3 husband has filed an affidavit bearing today's date i.e. 10-1-2018 in the context of the present Petition paragraphs 5 to 8 of the said affidavit are material and are reproduced hereinunder:

5. I say that the Petitioner is a woman and not having criminal antecedent as well as psychological disorder. I further say that during 15 years married life, this is only solitary incident and present settlement does not affect the public policy and it will enable me to take care of Petitioner and give her proper psychiatric treatment.

6. I say that I am not having complaint against the Petitioner and he wants to withdraw his allegation against the Petitioner. Hence I have no objection to quash the present FIR bearing no.487 of 2017 dated 7th September 2017 which

is no bearing Sessions Case No.5 of 2018 pending before Hon'ble 9th Additional Sessions Judge at Dindoshi.

7. I say that I am now having any complaint against the Petitioner and I want to withdraw my allegation against the Petitioner. Hence I have no objection to quash the present FIR bearing NO.487 of 2017 dated 7th September 2017 which is now bearing Sessions Case No.5 of 2018 pending before Hon'ble 9th Additional Sessions Judge at Dindoshi, Mumbai.

8. I say that I will not keep in any grudge in my mind and I have no grievances against each other and I will co-operate with the Petitioner and will take care of her.

4 A reading of the said affidavit therefore discloses the undertone of there being sympathy for the Petitioner of the Respondent No.3 husband. The Respondent No.3 as indicated above is personally present in court. He is identified by the Learned Advocate Mr. U. L. Singh appearing for him. When put in the box and queried he states that he has no grievance against his wife i.e. the Petitioner and he further states that he would take care of his wife.

5 The Petitioner appears to be in custody and therefore is not present in court. Normally having regard to the nature of the allegations as contained in the instant FIR, we would have considered the request for quashing by consent with same circumspection, however, having regard to the peculiar facts of this case wherein the couple is belonging to a strata of society which finds it difficult to make two ends meet as also considering the fact that

the Petitioner is suffering from a mental ailment namely paranoid schizophrenia. We are of the view that continuing the prosecution of the Petitioner would perpetuate the difficulties and the agonies of the couple as the prosecution would have a debilitating effect on the lives of both the Petitioner and the Respondent No.3 her husband. We are therefore of the view that the interest of justice would be served if the request of the Petitioner made by way of the above Petition for quashing of the FIR is acceded to. The above Petition is therefore required to be allowed and is accordingly allowed, resultantly the Sessions Case No.5 of 2018 pending before the 9th Additional Sessions Judge, Dindoshi, Mumbai, is quashed and set aside. The above Petition is accordingly disposed of.

6 In view of the instant order, the Petitioner be released forthwith on producing a copy of the instant order. All parties to act on an ordinary copy of this order duly authenticated by the Court Shierestedar.

7 The Learned Counsel Mr. U. L. Singh undertakes to file vakalatnama on behalf of the Respondent No.3 within the course of this week. Undertaking accepted.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]