

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 173 OF 2019

1. Mr. Nicky Simoes
Son of late Thomas Simoes.
Aged 32 years,
Seaman.
2. Mr. Salvador Simoes,
Son of late thomas Simoes,
Business, married and his
wife,
3. Mrs. Eurica Simoes,
Wife of Salvador Simoes
Aged 32 years, housewife,
all residents of House no.1420/A,
Rangali, Betul,
Velim, Salcete, Goa. ... Petitioners

V e r s u s

1. Police Inspector
Cuncolim Police Station,
Cuncolim, Goa.
2. Mrs. Minguelina Piedade Rebello
Alias Primcy Rebello,
Aged 29 years, married,
Wife of Nicky Simoes
Daughter of Custodio Rebello,
Presently residing at
House No.860/1,
Baida, Chinchinim,
Salcete, Goa. ... Respondents

Mr. Preetam Talaulikar, Advocate for the Petitioners.

Mr. S. Rivankar, Public Prosecutor for the Respondent no.1.

Mr. Tushar Naik, Advocate for the Respondent no.2.

**Coram :- C. V. BHADANG &
NUTAN D. SARDESSAI, JJ.**

Date : 10th October, 2019.

ORAL JUDGMENT

1. Rule, made returnable forthwith. Learned Counsel for the respondents, waive service. Heard finally by consent of the parties.

2. By this petition, under Article 226 of the Constitution of India read with Section 482 of the Code of Criminal Procedure (Code, for short), the petitioner is seeking quashing of the FIR No.105/2013 dated 01.08.2013 registered against the petitioner, with Cuncolim Police Station, under Section 498-A read with Section 34 of the Indian Penal Code (IPC, for short). The petitioner no.1 is the husband of the second respondent while the petitioner no.2 is the brother and petitioner no.3 is the sister in law of the petitioner. On the basis of a complaint lodged by the second respondent on 28.07.2013, the aforesaid offence came to be registered against the petitioners.

3. It appears that the parties have arrived at an amicable settlement and the Consent Terms are filed before the learned Judicial Magistrate First Class at Margao in case

no.PWD/25/2013/G filed by the second respondent against the petitioner under the provisions of The Protection of Women from Domestic Violence Act, 2005 (Domestic Violence Act, for short). A copy of the Consent Terms is produced on record in this petition. On the basis of the amicable settlement of the dispute, the petitioner is seeking quashing of the FIR and the consequent investigation, if any. The record discloses that acting on the basis of the Consent Terms, the proceedings filed by the second respondent under the Domestic Violence Act have been disposed off on 09.02.2018.

4. We have heard Mr. Talaulikar, the learned Counsel for the petitioners and Mr. Naik, the learned Counsel for the respondent no.2. We have also heard the learned Public Prosecutor for the first respondent.

5. The learned Counsel for the second respondent does not dispute that the parties have amicably settled the dispute and, therefore, the second respondent has no objection for the quashing of the proceedings.

6. The Hon'ble Supreme Court in the case of **B. S. Joshi & Ors. vs. State of Haryana & anr., (2003) 4 SCC 675**, has held that in an appropriate case, this Court in exercise of

inherent powers under Section 482 of the Code and in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India, can exercise powers to quash the FIR which is an outcome of a matrimonial dispute where the parties have reached an amicable settlement. The Hon'ble Supreme Court has held that it is the duty of the Court in such a case to encourage genuine settlement of matrimonial dispute. We are satisfied that in view of the amicable settlement reached between the parties, the impugned FIR is liable to be quashed.

7. In the result, the petition is allowed. Rule is made absolute in terms of prayer clause (A) with no order as to costs.

NUTAN D. SARDESSAI, J.

C. V. BHADANG, J.

arp/*