

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 264 OF 2019

Mantosh Ranjaiprasad Vishwakarma
and others .. Petitioners
Versus
The State of Maharashtra & Anr .. Respondents

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Mrs.Samrudhi Salvi for the petitioners.
Mr.A.D. Kamkhedkar, APP for the State.
Ms.Gayatri N. Gokhale for respondent no.2.

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

DATED : 31st JULY 2019

P.C:-

1 Heard the learned counsel appearing for the petitioners, learned counsel appearing for the Respondent No.2 and the learned APP for the State.

2 This petition is filed for quashing and setting aside the proceedings of the criminal case bearing C.C.No. 1042/PW/2018 pending on the file of learned Metropolitan Magistrate's 32nd Court, Bandra, Mumbai registered at the instance of Respondent No.2. The said case arises out of

registration of FIR bearing C.R.No.373/2017 with Nirmal Nagar Police Station for commission of offences punishable under Sections 498A, 354, 509, 323, 504 r/w Section 34 of the Indian Penal Code.

3 The petitioner No.1 and Respondent No.2 are husband and wife and the rest of the petitioners are relatives of petitioner No.1 and in-laws of respondent No.2. Matrimonial disputes between the parties gave rise to the filing of civil as well as criminal proceedings by the parties against one another and the subject petition is one of them.

4. The parties, however, with the intervention of the elders and well-wishers, have settled the disputes amicably and approached this Court in pursuance of the understanding arrived at between them for quashing the subject FIR by consent.

5 The Respondent No.2 accordingly has filed an Affidavit dated 15th January 2019. In paragraph nos.3 to 8, the following averments are made :-

“3.I say that after filing of the said FIR against my husband, brother-in-laws, mother-in-law and father-in-law, discussions and/or talks took place between my husband and me wherein we have resolved our issues amicably.

4. I state that I have willingly, in the best interest of me, my husband as well as my minor children, decided to

withdraw the case registered against the accused bearing FIR No.373 of 2017 registered at the Nirmal Nagar Police Station.

5. I say that I have voluntarily and out of my will, without any force/coercion decided not only to withdraw the abovementioned FIR but also decided to return to my matrimonial house along with the minor children and resume cohabitation with my husband. I say that the said settlement is however without prejudice to the allegations made by me in the said FIR.

6. I am making this affidavit to give my consent for quashing of FIR bearing number 373 of 2017 registered against the Petitioners at my instance by the Nirmal Nagar Police Station for offences punishable u/s.498A, 354, 509, 323, 504 r/w 34 of the Indian Penal Code, 1860 as well as all proceedings and applications arising therefrom and incidental thereto in respect of amicable settlement as no fruitful purpose will be served by continuation of the said proceedings against the petitioners.

7. I say that I hereby undertake not to make further claims and/or allegations against the petitioners, arising out of the same facts as have been mentioned by me in the body of my FIR in the future.

8. I say that in light of the fact that I wish to withdraw the case filed by me against the petitioners, and do not wish to pursue prosecution against them, continuation of proceedings will be of no use/purpose.”

6 Respondent No.2 is present in the Court. On inquiry, she states that she has understood the contents of the consent terms and she also states that she is not interested in prosecuting the subject FIR in view of the settlement between the parties.

7 In light of above, we are of the opinion that no fruitful purpose would be served by continuing criminal proceedings against the accused.

8 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 proceedings 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 and set aside.

9. Hence, we quash and set aside the FIR bearing No.373 of 2017 registered with Nirmal Nagar Police Station, Mumbai. The petition is, accordingly, made absolute in terms of prayer clause (a) of the petition.

(SMT. BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)