

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.602 OF 2019

Bhaumik Minesh ShahApplicant
Versus
The State of Maharashtra & Anr.Respondents

Mr. Aditya Mohta i/b. Jignesh Gor, Advocate for the Applicant.
Mr. S.R. Shinde, APP for the Respondent-State.
Mr. Santosh G. Pawar, Advocate for Respondent No.2

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

DATE : 5th AUGUST, 2019.

P. C. :

1. Heard learned counsel and learned APP appearing for the respective parties.
2. The application is filed for quashing and setting-aside the proceedings of C.C.No.2635/PW/2018 pending on the file of learned Metropolitan Magistrate, 66th Court at Andheri, Mumbai. The said case arises out of FIR bearing C.R.No.123 of 2018, registered with Amboli Police Station, at the instance of respondent No.2, for the offences punishable under Sections 498A, 323 and 504 of the Indian Penal Code, 1860.
3. The applicant and Respondent No.2 are husband and wife.

Matrimonial dispute between the parties gave rise to filing of civil as well as criminal cases and the subject criminal case is one of them. Pending trial, the parties settled their dispute amicably with the intervention of their elders and well-wishers and have, accordingly, filed Divorce Petition by mutual consent bearing Petition No.A-866 of 2018 pending in the Family Court at Bandra, Mumbai, a copy of which is annexed at "Exhibit-C", page 43.

4. In terms of Clause (A) of the said consent terms, the applicant has agreed to pay an amount of Rs.69,00,000/- (Sixty Nine Lacs Only) to the Respondent No.2 towards full and final settlement of her claim towards permanent alimony/maintenance and residence etc. The said amount is deposited in the Family Court in Petition No.A-866 of 2018. The Respondent No.2 is entitled to withdraw the said amount after the decree of dissolution of marriage.

5. In pursuance of the understanding arrived at between the parties, they have now approached this Court for quashing and setting-aside the proceedings of the subject criminal case by consent. Respondent No.2 has also filed an affidavit dated 02.05.2019, wherein she has reiterated whatever that has been stated hereinabove and in paragraph 7, she has given her no objection for quashing and setting-aside the proceedings of the subject criminal case. The applicant and Respondent No.2 are personally present before the Court. On being

questioned, she specifically stated that she has gone through the application and the affidavit as well and has fully understood the contents thereof. She has further confirmed that she has given no objection for quashing the said proceedings out of free will and without there being any pressure or coercion.

6. 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.

7. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]