

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 651 OF 2019**

Mr. Kirit Dayalal Modi

.....Petitioner

versus

The State of Maharashtra and anr.

.....Respondents

Mr. Sanjay Mishra, advocate for the applicant.

Mr. Deepak Thakare, PP along with Mr. S. R. Shinde, APP for the State.

Mr. Pramod Pandey, advocate for respondent No.2.

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

DATE : 19th JUNE, 2019.

P. C. :

1. Heard learned counsel and learned APP appearing for the respective parties.
2. The application is filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting-aside the FIR No.402 of 2018 registered with Santacruz Police Station at the instance of respondent No.2, for the offences punishable under Sections 498A, 323, 504 and 506 of the Indian Penal Code, 1860.
3. Applicant No.1 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 FIR is one of them. Pending investigation, the parties settled their dispute amicably with the

intervention of their elders and well-wishers and have, accordingly, filed consent terms in the Family Court at Bandra in Petition No.A-2294 of 2018. In terms of the settlement, the parties have agreed to obtained divorce by mutual consent. The petitioner also agreed to pay to respondent No.2 an amount of Rs.10,50,000/- towards full and final settlement. This amount is, however, to be paid after quashing of the subject FIR as well the proceedings under the Domestic Violence Act, 2005. A statement is made across the Bar that the proceedings of divorce by mutual consent are pending before the Family Court at Bandra.

4. In pursuance of an understanding arrived at between the parties, they have now approached this Court for quashing and setting-aside the subject FIR by consent. Respondent No.2 has accordingly filed a separate affidavit dated 17th June, 2019, wherein she has reiterated whatever that has been stated hereinabove and in paragraph 3, she has given her no objection for quashing and setting-aside the subject FIR. Respondent No.2 is 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 subject FIR 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 FIR would be in the interest of respondent No.2. Besides, no purpose would be served by keeping the FIR alive except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interest of justice, the subject FIR is required to be quashed and set-aside. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]