

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2892 OF 2019

Mr.Amitkumar Durga Prasad Mishra & Ors. ..Petitioners
V/s.
The State of Maharashtra & Anr. ..Respondents

Mr.Mukesh Kumar Mishra for the Petitioners.

Mr.S.D. Shinde, APP for the Respondent-State.

Mr.Vinay S. Balotiya for Respondent No.2.

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

DATE : 11th JUNE 2019

P.C.

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

2. The petition is filed for quashing and setting aside the Criminal Case bearing No.70/PW/2019 arising out of the FIR bearing C.R. No.04 of 2018 pending on the file of 27th M.M. Court, Mulund, Mumbai registered at the instance of respondent No.2 with Navghar Police Station.

3. The petitioner No.1 and respondent No.2 are husband and wife and petitioner Nos.2 and 3 are relatives of the petitioner No.1 and in-laws of respondent No.2. Matrimonial discord between the parties gave rise to filing of several Criminal, Civil cases as well as D.V. complaints. The subject matter of the present application is one of them.

4. Pending the trial, with the intervention of the elders and family members parties have settled their dispute amicably and filed consent terms for settlement, copy of which is at Exh-B at page No.60. Under paragraph No.9 of the consent terms, the parties would approach the Family Court to dissolve their marriage by mutual consent. The said consent terms discloses that the petitioner No.1 has agreed to pay to respondent No.2 an amount of Rs.16 lakhs towards full and final settlement on for all her claims.

5. In paragraph No.11 of the said consent terms, the schedule of payment in form of three installments is given i.e. (i) Rs.10,00,000/- to be given at the time of the filing of the consent affidavit (NOC) before Hon'ble Bombay High Court for quashing subject Criminal Case (ii) Rs.2,00,000/- at the time of filing Divorce petitioner by mutual consent and (iii) Rs.4,00,000/- to be given at

the time of the filing final affidavit by way of evidence before Hon'ble Family Court/Appropriate Court, in mutual divorce petition.

5. In terms of the understanding arrived between the parties, the respondent No.2 has no objection to quash the subject proceeding by consent. The respondent No.2 has filed an affidavit dated 11.06.2019 before this Court. In paragraph No.2 she has given no objection for quashing the subject criminal case. The respondent No.2 is personally present in the Court. On specific query, she has stated that she has gone through the affidavit and undertaking and understood the contents thereof and she also stated that she has received an amount of Rs.2,00,000/- by way of Pay Order today from the respondent No.2. She acknowledged the receipt of the same. She further stated that she has no objection to quash and set aside the subject criminal case.

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 FIR 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 subject FIR is required to be quashed. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

7. It is pointed out that the petitioner No.1 is serving in USA and subsequent to the registration of the FIR, Look Out Notice was issued against him. Since, we have quashed the proceedings of the subject FIR, we direct that Navghar Police Station/Competent Authority to take steps to cancel the Look Out Notice issued to the petitioner. We also state that the same shall not be acted upon if same is issued solely on the basis of the present FIR.

(SMT.BHARATI H. DANGRE, J.)

(RANJIT MORE, J.)