

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

WRIT PETITION NO. 3444 OF 2019

Nilesh Nenshi Gala

.. Petitioner

Vs.

The State of Maharashtra & Anr.

.. Respondents

Mr.Saiyed Sahil M. Nagamiya for petitioner.

Mr.Deepak Thakare, PP and Mr. S.R. Shinde, APP for respondent No.1-State.

Mr.Mohd. Zain Khan for respondent No.2.

Ms. Jinal Dhiraj Chheda-respondent No.2 present.

**CORAM : RANJIT MORE &
N.J. JAMADAR, JJ.**

DATE : 14TH AUGUST 2019

P.C.

1 Heard the learned counsels for the petitioner, respondent No.2 and the learned APP.

2 The petition is filed for quashing and setting aside the First Information Report No.59 of 2019 registered with Colaba Police Station at the instance of the respondent No.2, for the offences punishable under sections 498-A, 504, 506, 323 of the Indian Penal Code, 1860.

3 The petitioner and the respondent No.2 got married on 8th February

2019 in accordance with the Hindu Vedic rites. Various irreconcilable differences between the parties gave rise to registration of the subject FIR. The parties, however, have settled their disputes amicably and started residing separately since 21st March 2019. The parties also, thereafter, entered into the Deed of Separation dated 11th June 2019. In clause 6 of the Deed of Separation, the parties have agreed to file Divorce Petition by mutual consent, after mandatory period of separation of one year, in the Court of competent jurisdiction. In terms of the agreement between the parties, now they have approached this Court for quashing the subject FIR, by consent.

4 The respondent No.2 has filed an affidavit, dated 11th June 2019. In paragraphs (f) to (l), the following statements are made :

“(f) I say that by a Deed of Separation dated 11.6.2019 executed between myself and the petitioner; we have agreed to separate from each other. I repeat, reiterate and confirm whatever is stated in the said Deed of Separation dated 11.6.2019.

(g) I hereby unconditionally withdrew all allegations levied by me in the FIR no.59/2019 dated 21st March, 2019 filed by me against the Petitioner before the Colaba Police Station.

(h) I hereby give my irrevocable consent to quash the FIR no.59/2019 dated 21st March, 2019 and/or for the Petitioner to be honourably discharged in relation to the same.

(i) I say that apart from the FIR no.59/2019 dated 21st March, 2019, I have not filed any other complaint against the Petitioner

or his family members and if there exists any such complaint in existence the same shall stand withdrawn/disposed off/quashed forthwith by virtue of the understanding arrived at by me and Petitioner as recorded in the Deed of Separation dated 11.6.2019.

(j) I hereby agree, confirm, declare and undertake that I shall extend due cooperation, remain personally present and execute all necessary documents in relation to an appropriate Petition/proceeding before the Hon'ble Family Court, Bombay for a decree of divorce by mutual consent in accordance with law for the dissolution of my marriage to Petitioner.

(k) I say that I shall not now and/or at any time in the future claim any alimony, maintenance or any other expense from Petitioner or his family.

(l) I say that I am making this affidavit out of my own free will and volition without the exercise of any force, undue influence, coercion of any nature whatsoever, voluntarily and freely after fully understanding the intent, effect and consequences thereof."

5 The respondent No.2 is personally present before the Court. On specific query of the Court, she has stated that she has gone through the Deed of Separation and affidavit as well and has fully understood the contents thereof. She has further confirmed that that she has given no objection for quashing the subject FIR in view of the settlement between herself and the petitioner. She has also stated that she gave her consent for quashing of the subject FIR of her own 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 FIR, makes it clear that the allegations

are totally personal in nature. No element of public law is involved. The genesis of the FIR is in marital discord, which the parties have amicably resolved. In these circumstances and, especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi & Ors. Versus State of Haryana**¹, we are of the view that quashing of the FIR would be in the interest of respondent No.2 also. 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 interest of justice, the proceedings of the subject subject FIR is required to be quashed.

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

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]

1 AIR 2003 SC 1386

