

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3377 OF 2017**

Abhijit Prasad Pendharkar and ors.Petitioners
versus
The State of Maharashtra and anr.Respondents

Ms. Ankita A. Phadke, advocate for the petitioners.
Mr. K. V. Saste, APP for the State.
Mr. Prem Keshwani, advocate for respondent No.2.

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

DATE : 3rd JULY, 2019.

P. C. :

1. Heard learned counsel and learned APP appearing for the respective parties.
2. The petition is filed for quashing and setting-aside the FIR bearing CR No.124 of 2017 registered with Bangurnagar Police Station, at the instance of respondent No.2, for the offences punishable under Sections 498A read with Section 34 of the Indian Penal Code, 1860.
3. Petitioner No.1 and Respondent No.2 are husband and wife. Rest of the petitioners are the relatives of petitioner No.1. Matrimonial dispute between the parties gave rise to filing of civil as well as criminal cases and the subject FIR is one of them.

4. Pending investigation, the parties settled their dispute amicably with the intervention of their elders and well-wishers and have, accordingly, filed consent terms for mutual consent divorce before the 5th Family Court at Bandra in Petition No.A-2808 of 2018. In terms of the consent terms, the petitioner No.1 agreed to pay to respondent No.2 an amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) towards permanent lumpsum alimony/maintenance as full and final settlement for divorce. Learned counsel for the petitioners submitted that the amount of Rs.22,00,000/- (Rupees Twenty Two Lakhs Only) is already deposited by petitioner No.1 in Family Court in Petition No.A-2808 of 2018 and respondent No.2 is at liberty to withdraw the same once the subject FIR is quashed and decree of divorce by mutual consent is obtained. A copy of the said consent terms is annexed to the affidavit dated 11th April, 2019 filed by the respondent No.2. In terms of the 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 in her aforesaid affidavit has reiterated whatever that has been stated above and in paragraph 4, she has given her no objection for quashing and setting-aside the subject FIR. Petitioner No.1 and respondent No.2 are personally present before the Court. On specific query, both of them stated that they will abide by the terms and conditions

of the abovementioned consent terms. The statement is accepted as an undertaking to this Court. In addition to this, the respondent No.2 specifically stated that she has gone through the petition, affidavit and the consent terms and has fully understood the contents thereof and she has no objection if the subject FIR is quashed and set-aside. She also stated that she is giving 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 subject 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 petition is, accordingly, made absolute in terms of prayer clause (a) and is disposed as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]