

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4056 OF 2019**

Shagufta Parveen Irfan Jamkhandikar .. Petitioner
Vs.
The State of Maharashtra
& Ors. .. Respondents

Mr.A.N. Shaikh for petitioner.

Mr.F.R. Shaikh, APP for respondent No.1-State.

Mr.Akshay K. Sonawane for respondent No.2.

Ms. Shagufta Parveen Irfan Jamkhandikar-petitioner present.

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

DATE : 28TH AUGUST 2019

P.C.

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

2 The complainant herself has approached this Court invoking jurisdiction under section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside the First Information Report bearing No.I-384 of 2017 registered with Mumbra Police Station, Dist. Thane against respondent No.2 for the offences punishable under sections 498(A), 406, 323 and 504 read with 34 of the Indian Penal Code, 1860.

3 The petitioner and the respondent No.2 got married on 21st March 2015. Respondent Nos.3 to 10 are relations of the respondent No.2 and in laws of the petitioner. Marital discord between the parties gave rise to filing of the subject FIR. Pending investigation, parties have settled their disputes amicably and have entered into consent terms, dated 25th July 2019, which is annexed at Exh.'B' to the petition. In terms of the understanding between the parties, the complainant herself has approached this Court for quashing the subject FIR. We have perused the consent terms. In the consent terms, the following averments are made by the parties :-

“1. That there is irreparable breakdown of marriage between the Applicant/Petitioner -wife and Respondent No.2-husband. All the efforts of reconciliation between themselves went in vain. Hence, the Applicant/Petitioner and the Respondent No.2, being the husband and wife separated from each other by virtue of mutual customary divorce arrived at between them, in the presence of the witnesses, which is permissible in Muslim personal law as well as Shariat.

*2. The Respondent No.2-husband hereby agreed to pay a lump sum amount of **Rs.4,00,000/- (Rupees Four Lacs)** to the Applicant/Petitioner which includes her past, present and future maintenance, Marriage expenses, Amount for her Meher & Iddat as well as Amount for articles, gifts, household utensils, jewellery, given and gifted at the time of marriage.*

3. The Applicant/Petitioner is agreed to accept the lump sum amount from the Respondent No.2 and she will not claim remains against the Respondent No.2 as all her claims have been settled amicably.

4. The Applicant/Petitioner shall withdraw the domestic violence Case bearing C.C.No.107/DV/2018 filed by her against the Respondents above named with J.M.F.C. and Civil Judge, Thane.

5. *The Applicant/Petitioner shall file the criminal Application for setting aside and to quash the F.I.R. bearing No.I-384 of 2017 lodged by her with Respondent No.1-Mumbra Police Station U/s. 498(A), 406, 323, 504 r/w. Sec. 34 of I.P.C. jointly with the Respondents/Accused therein.*

6. *The Applicant/Petitioner as well as the Respondents above named shall withdraw the complaints, allegations, notices or cases if any filed by them against each other in connection of the marital ties of the Applicant/Petitioner with Respondent No.2, as all their grievances have been settled by virtue of this Consent Terms finally and the Applicant and Respondent have been separated from each other.....”*

4 The petitioner-original complainant is present in Court. She states that she has been explained the consent terms in vernacular language and she has understood the contents thereof. She further states that she has received an amount of Rs.4,00,000/- from the respondent No.2 towards her past, present and future maintenance, marriage expenses, amount for her Meher & Iddat as well as for articles, gifts etc., gifted at the time of marriage, and to that effect Pursis dated 28th August 2019 is tendered in the Court which is taken on record. She has also confirmed that she has no objection for quashing the subject FIR in view of the settlement between herself and the respondent No.2.

5 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 petitioner 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.

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

[N.J. JAMADAR, J.]

[RANJIT MORE, J.]

1 AIR 2003 SC 1386