

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI WRIT PETITION NO. 5766 OF 2018

Ryan Kaziten Castellino

...Petitioner

Versus

State of Maharashtra & anr.

...Respondents

Mr. Onkar Mulekar, I/b Trisha Bhattacharya, for the
petitioner.

Ms. Sangita Shinde, APP for the State/Respondent.

Mr. Kunal Ambulkar, I/b R. R. Tandale, for Respondent
no.2.

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

DATED: 29th AUGUST, 2019

PC:-

1. Mentioned for production board. Taken up on
production board in view of urgency.

2. Heard Mr. Mulekar, the learned counsel for the
petitioner, Mr. Ambulkar, the learned Counsel for respondent
No.2 and Ms. Shinde, the learned APP for the State.

3. The petition is filed for quashing and setting aside the
proceedings of the criminal case bearing R.C.C. No.491/
PW/2014, pending on the file of 24th Metropolitan Magistrate
Court, Borivali. The said case is arises out of registration of
First Information Report being C.R. No.62 of 2009, dated 31st
March, 2009, registered with Charkop Police Station, Navi

Mumbai, at the instance of respondent No.2, for the offences punishable under sections 498-A read with 34 of the Indian Penal Code, 1860.

4. Petitioner No.1 and respondent No.2 are husband and wife. Petitioner no.2 is the mother of petitioner no.1. Marital discord between the parties gave rise to several civil as well as criminal proceedings. Subject proceeding is one of them. With the intervention of the elderly relatives in the family and well wishers, parties have settled their disputes amicably and filed consent terms before Family Court at Bandra. Copy of the consent terms is annexed at 'Exhibit-B'. In the consent terms, the parties have agreed to dissolve their marriage by filing mutual consent petition under Section 28 of the Special Marriage Act, 1954.

5. In the consent terms, petitioner no.1 has agreed to pay to respondent no.2 an amount of Rs.4,00,000/- towards full and final settlement against all the claims of past, present and future. The parties have agreed that the custody of the minor son Ronan would remain with respondent no.2.

6. Pursuant to the understanding arrived at between the parties, now they have approached this Court for quashing the subject proceeding. Respondent No.2 has filed an affidavit

dated 22nd April, 2019. In paragraph 4, she has given no objection for quashing the subject proceeding.

7. Petitioner no.1 and respondent no.2 are personally present before the Court. On specific query made by us, respondent No.2 has stated that she has no objection for quashing the subject proceeding. Both make a common statement that they have agreed to settle all disputes amicably and are ready and willing to withdraw all allegations against each other. Statement accepted.

8. 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 proceeding of the subject criminal case 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

1AIR 2003 SC 1386

overburdened. In that view of the matter and in the interest of justice, the proceedings of the subject criminal case/FIR is required to be quashed.

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

[N. J. JAMADAR, J.]

[RANJIT MORE, J.]