

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1478 OF 2018**

Mr. Behram Minocher Afagh and anr.Applicants

versus

The State of Maharashtra and anr.Respondents

Ms. Beena Menon, advocate for the applicants.

Ms. Sangeeta D. Shinde, APP for the State.

Mr. Himanshu Choudhary I/b. Naik Naik and Co., advocates for the respondent No.2.

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

DATE : 27th MARCH, 2019.

P. C. :

1. Learned counsel for the applicants, at the outset, seeks leave to amend prayer clause (a) of the application, so as to give particulars of the criminal case. Since the amendment is necessitated by occurrence of events subsequent to the filing of the application, leave as prayed for, is granted. Necessary amendment be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the respective parties.

3. The application is filed under Section 482 of the Code of Criminal Procedure, 1973, for quashing and setting-aside the proceedings of criminal case No.798 of 2018 pending on the file of learned Metropolitan Magistrate, 28th Court at Esplanade, Mumbai. The said case

arises out of FIR No.259 of 2018 registered with Lokmanya Tilak Marg Police Station at the instance of respondent No.2, for the offences punishable under Sections 498A, 406, 323, 504, 506 and 506(2), 377, and 511 read with Section 34 of the Indian Penal Code, 1860.

4. Applicant No.1 and respondent No.2 got married in the year 2017. Applicant No.2 is the mother of applicant No.1. Matrimonial dispute between the parties gave rise to filing of civil as well as criminal cases and the subject criminal case is one of them. Pending trial, the parties settled their dispute amicably with the intervention of their elders and well-wishers and have, accordingly, filed consent terms before the Sessions Court at Mumbai in Anticipatory Bail Application No.1630 of 2018. A copy of the said consent terms is annexed at "Exhibit -B", page 28. In terms of the said consent terms, the marriage between applicant No.1 and respondent No.2 is dissolved by this Court by order dated 25th March, 2019. Learned counsel for the applicants, having taken instructions from applicant No.1 stated that all terms and conditions of the consent terms are already complied with. The statement is accepted.

5. In pursuance of the understanding arrived at between the parties, they have now approached this Court for quashing and setting-aside the proceedings of the subject criminal case by consent. Respondent No.2 has also filed an affidavit dated 26th February, 2019, wherein she has reiterated whatever that has been stated hereinabove

and in paragraph 2, she has given her no objection for quashing and setting-aside the proceedings of the subject criminal case. Respondent No.2 is personally present before the Court. On being questioned, she specifically stated that she has gone through the application and the affidavit as well and has fully understood the contents thereof. She has further confirmed that she has given no objection for quashing the said proceedings out of 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 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 criminal proceedings 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 proceedings of the subject criminal case are required to be quashed and set-aside. The application is, accordingly, made absolute in terms of prayer clause (a) and is disposed of as such.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]