

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.611 OF 2020

Sachin Suresh Waghmare & Ors.

.... Petitioners

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Ms.Anushka Shreshtha, Advocate for Petitioners.
- Mr.J.P. Yagnik, APP for State/Respondent No.1.
- Sadika Naik, Advocate for Respondent No.2.

CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.

DATE : 21 DECEMBER 2021

P.C. :

. Heard learned Counsel for parties. Taken up for disposal.

MANUSHREE V
NESARIKAR 2.

The Petition is filed with following prayers;

Digitally signed by
MANUSHREE V
NESARIKAR
Date: 2021.12.23
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“a. *That this Hon’ble Court be pleased to quash and set aside the FIR No.0009 of 2019, registered by Nerul Police Station at Navi Mumbai, under section 498(A), 406, 323, 504, 34 of Indian Penal Code dated 13.01.2017 and criminal case bearing*

R.C.C.No.590/2019, pending before Ld.J.M.F.C. Vashi, Navi Mumbai, and further be pleased to discharge the Petitioners from Criminal Case bearing Ld. J.M.F.C. Vashi, Navi Mumbai, under section 498(A), 406, 323, 504, 34 of Indian Penal Code.”

3. The Petitioner No.1 is the husband, the Petitioner No.2 is the mother-in-law; the Petitioner No.3 is the brother-in-law; the Petitioner No.4 is wife of Petitioner No.3; the Petitioner No.5 is the brother-in-law; the Petitioner No.6 is the wife of Petitioner No.5; the Petitioner No.7 is the maternal uncle of the Petitioner No.1; and the Petitioner No.8 is the wife of Petitioner No.7.

4. The Respondent No.2 has filed an FIR alleging mental and physical cruelty and demands of dowry.

5. The learned counsel for the Petitioners and learned counsel for Respondent No.2 states that the parties have settled their dispute and the Respondent No.2 has given no objection for quashing the FIR. An affidavit to that effect is filed by Respondent No.2.

6. The matrimonial proceedings were instituted in the Family Court at Bandra bearing No.1599 of 2019. The Family Court referred the parties for counseling and settlement took place, where they agreed to dissolve the marriage by mutual consent. The learned

Family Court Judge took the affidavit and consent terms on record and passed an order on 7 February 2020 dissolving the marriage. One of the terms of consent terms was that the Respondent No.2 will give no objection for quashing of the FIR filed against the Petitioner. Pursuant thereto the Respondent No.2 has filed an affidavit giving consent in this Petition, contents of which are reiterated by the Respondent No.2.

7. Having considered totality of all the circumstances i.e. the averments in the statement, in the FIR, the consent decree, the affidavit filed in this Court, it is clear that case for exercise of extraordinary jurisdiction of this Court to quash the FIR by consent, is made out. The dispute that led to filing of the FIR is a matrimonial dispute which is now resolved. The dispute does not have repercussion on the society. If the FIR is not quashed, it will disturb the settlement process arrived at through counseling in the Family Court. It will subject the parties to needless harassment and may not lead to any conviction. The Writ Petition deserves to be allowed and is accordingly allowed in terms of prayer clause (a).

8. Order accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)