

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2863 OF 2021

Yogesh Kashmirilal Sandhu & Ors. .. Petitioners
v/s.
The State of Maharashtra & Anr. .. Respondents

....

Mr. Naveen Sharma, for the Petitioners.

Mr. K.V. Saste, APP, for Respondent State.

Mr. Yogendra Pendse, for Respondent No.2.

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

DATE : 22 DECEMBER 2021.

P.C:-

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

2. The petition is filed for the following relief:

“(a) This Hon’ble Court be pleased to quash the proceedings in R.C.C. No.78/2016 named as State of Maharashtra vs. Yogesh Kashimirlal Sandhu & Ors. under Sections 498A, 323, 504, 506 read with 34 of the Indian Penal Code, pending in the Court of the learned Judicial Magistrate, First Class, Vashi at Belapur, on such terms and conditions

as this Hon'ble Court deem fit and proper in the facts and circumstances of the case."

3. The reason for quashing the FIR is that Respondent No.2- the complainant has given consent for the same. Petitioner No.1 is the husband of Respondent No.2. Petitioner No.2 is the sister-in-law. Petitioner No.3 is the father-in-law and Petitioner No.4 is the mother-in-law of Respondent No.2. The marriage between Petitioner No.1 and Respondent No.2 was solemnized on 18 April 2011. Respondent No.2 filed the FIR on 16 January 2016 under Sections 498A, 406, 323, 504, 506, read with Section 34 of the Indian Penal Code. Respondent No.2 alleged that the Petitioners subjected her to physical and mental cruelty and demands for dowry.

4. The learned Counsel for the Petitioners and Respondent No.2 state that Petitioner No.1 and Respondent No.2 filed Marriage Petition No.83/2016 in the Court of Civil Judge, Senior Division, Thane, under Section 13 of the Hindu Marriage Act jointly in which they have agreed that Respondent No.2 will give consent for quashing the FIR. The affidavit of Respondent No.2 is on record giving consent for quashing and referring to the consent terms filed before the Court at Thane. The learned Counsel for Respondent No.2, on instructions from Respondent No.2, who is present in Court, as identified by the learned Counsel for Respondent No.2, reiterates the contents of the affidavit and that Respondent No.2 has given her consent.

5. Considering the contents of the FIR, the compromise terms filed before the Court at Thane, and the affidavit filed by Respondent No.2, case is made out for exercise of extra ordinary jurisdiction to quash the FIR. The dispute that led to filing of the FIR is a matrimonial dispute, which does not affect the society at large.

6. In light of the settlement, keeping the prosecution pending will be harassment to the parties, with no chance of conviction in light of stand of Respondent No.2.

7. Accordingly, writ petition is allowed in terms of prayer clause (a) as above.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)