

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.696 OF 2021

Sainath Ausare & Ors.

.... Applicants

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr.Prashant Badole, Advocate for Applicants.
- Mr.K.V. Saste, APP for the State/Respondent No.1.
- Ms.Trupti M. Khamkar, Advocate for Respondent No.2.

**CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, J.**

DATE : 28 OCTOBER 2021

P.C. :

. Heard the learned counsel for Respondent No.2 and the learned APP.

2. The application is filed under section 482 of Code of Criminal Procedure seeking to quash criminal proceeding being C.C. No.3433/PW/2018 pending before the learned Metropolitan Magistrate, 17th Court, Borivali, Mumbai arising out of C.R. No.200/2018 under Sections 498 (A), 406 r/w 34 of Indian Penal

MANUSHREE
V
NESARIKAR
Digitally
signed by
MANUSHREE
V
NESARIKAR
Date:
2021.10.30
16:22:20
+0530

Code, 1860 registered on 2 July 2018 with Vanrai Police Station, Mumbai upon complaint filed by Respondent No.2. The Respondent No.2 is the wife of Applicant No.1. The Applicant No.2 is the mother-in-law, the Applicant No.3 is the father-in-law and the Applicant No.4 is the sister-in-law. The Respondent No.2 and the Applicant got married on 11 February 2016.

3. The Respondent No.2 lodged an FIR under the aforesaid sections of the Indian Penal Code stating that the Applicant subjected the Respondent No.2 to mental and physical cruelty, pursuant to the demand of dowry. Pursuant to the FIR, the charge-sheet was filed in the Court of Metropolitan Magistrate, 17th Court, Borivali, Mumbai. The learned counsel for the Applicants and the Respondent No.2 stated that the parties have resolved the dispute and have filed consent terms in the Family Court, where there matrimonial proceedings are pending.

4. The consent terms are on record. The consent terms refer to the FIR and that the Respondent No.2 will give consent for quashing the FIR in the present application. The consent terms also state that they had deposited amounts to Respondent No.2 and withdrawals thereof. In this application the Respondent No.2 has filed an affidavit. In paragraph Nos.1 and 2 of the affidavit, the Respondent No.2 states as under;

1. I say that I am presently residing at the above mentioned address and a housewife. I say that I am the Original Complainant and I had lodged Complaint against the above named Applicants under sections 498 (A), 406 r/w 34 of the I.P.C. registered with Vanrai Police Station, Mumbai in C.C. No. 3433/PW/2018, pending on the file of Ld. Metropolitan Magistrate, 17th Court, Borivali, Mumbai. The said criminal case arises out of matrimonial dispute between me and my husband and in-laws i.e. the above named applicants and we have decided to part in an amicable manner and are not desirous to continue any further. I say that the entire dispute has been finally put to rest I say that myself and Applicants, have withdrawn all the allegations made by us against each other and hence I am not desirous to pursue the said criminal case. I say that now I do not have any grievances against the Applicants. I further say that my husband i.e. Applicant no.1 has filed a Petition for Divorce before the Hon'ble Family Court at Bandra being M.J.Petition no. A-841 of 2018 which will convert into divorce by mutual consent after quashing the present FIR.

2. I say that, I am aware that the present application is filed for quashing of the proceedings in complaint filed by me vide C.R. No. 200/2018 registered by Vanrai Police Station, Mumbai in C.C. No. 3433/PW/2018 pending on the file of Ld. Metropolitan Magistrate, 17th Court, Borivali, Mumbai. I say that I do not want to pursue the said Criminal Complaint and I have no objection if the present application is allowed and all the proceedings of C.C. No. 3433/PW/2018 pending on the file of Ld. Metropolitan Magistrate, 17th Court, Borivali, Mumbai are quashed and set aside and all the Applicants are discharged/ acquitted from the said case.”

5. The learned counsel for the Applicant and the learned counsel for the Respondent No.2 state that they have interacted with their respective clients and have satisfied themselves that the settlement is without any coercion. We have no reason to disbelieve this statement. The Petition had come up on earlier date and it was adjourned since the Rs.10 lakhs were not deposited in Family Court. The learned counsel for Petitioner and the Respondent No.2 informed that the amount of Rs.10 lakhs has been deposited.

6. The present situation where the FIR is related to a domestic dispute falls within parameters laid down by the Supreme Court in the case of *Gian Singh Vs. State of Punjab and another*¹, where the Supreme Court has laid down that certain situation such as domestic dispute, the proceeding can be quashed by consent.

7. In view of settlement already entered into and the affidavit filed before this Court, it is clear that keeping prosecution pending will be harassment to all the parties.

8. In light thereto, the application is allowed in terms of prayer clause (b).

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

1 (2012) 10 Supreme Court Cases 303