

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 812 OF 2021

Mohammed Adil Khan & Ors.

..Applicants.

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. S. A. Naqvi for Applicants.

Ms. M. H. Mhatre, APP for State/Respondent No.1.

Ms. Nikita Prakash Sacchan for Respondent No.2.

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

DATE : 4 DECEMBER 2021

P.C. :

. Heard learned counsel for the parties. Taken for disposal by consent.

2. This Application is filed for quashing of C.R.No. 232 of 2019 registered at Naya Nagar police station, Miraroad, District Thane, pursuant to the F.I.R. lodged by the Respondent No.2 against the Applicants under sections 498A, 406, 307, 323, 504 and 506(2) r/w. 34 of the IPC.

3. Respondent No.2 is the wife of Applicant No.1.

Applicant No.2 is the mother-in-law of the Respondent No.2, Applicant No.3 is sister-in-law and Applicant No.4 is brother-in-law of the Respondent No.2 and Respondent No.5 was father-in-law of the Respondent No.2, who has now expired. The Application is filed on the basis that, Respondent No.2 and the Applicants have settled their dispute and consent terms have been filed in the court of Metropolitan Magistrate's Court, Kurla and the Respondent No.2 has filed an affidavit in this court that the Respondent No.2 has no objection for quashing of the F.I.R.

4. The learned counsel for the Applicants and the learned counsel for the Respondent No.2 jointly request that the F.I.R. be quashed by consent. In this context, we have perused the F.I.R. In the F.I.R. the Respondent No.2 has stated that, she was subjected to mental and physical cruelty for demand of dowry. There is a reference in the F.I.R. about the Applicant No.1 was trying to put pillow on her face and sprinkling kerosene. The learned counsel for the Applicants submitted that these are the general assertions and there is nothing in the investigation to support that and this by itself would justify the offence under section 307 of IPC. The learned counsel for the Respondent No.2 has also accepted this position.

5. As regard part of sprinkling of kerosene and pillow is concerned, it is stated in most vague and general terms. This is relevant in the context the stand taken by Respondent No.2 before

us. Therefore, we find merit in the contention of the learned counsel for the Applicants that, so far as, Section 307 of IPC is concerned, in the facts of this case, it will not be so attracted and the other offences are result of a domestic dispute. We have been shown the medical papers wherein there are certain injuries on the Respondent No.2, but as pointed out by the learned counsel for the Applicants, they do not tally with what is stated in the F.I.R. Also those injuries are simple injuries.

6. Apart from the fact that the Respondent No.2 has filed an affidavit before the Metropolitan Magistrate's Court, she has filed consent affidavit in this court. The Respondent No.2 is present in the Court and represented through an advocate who has stated regarding her consent. In the light of these peculiar facts of this case, interaction was made with the Respondent No.2 and she has informed that she wants to put the past behind and going through these proceedings itself is causing her mental trauma and as long as these proceedings remain she will not have mental peace.

7. Considering the totality of the circumstances, settlement arrived at between the parties and the sentiments expressed by the Respondent No.2 to us, we find that, it will in the interest of justice, not to continue with the prosecution which would be disrupting settlement process between the husband and wife and the in-laws and embroiling entire family in prosecution for years together. At the

same time, we are of the opinion that the Applicants should pay cost, which will be in the interest of justice.

8. Accordingly, the Application is allowed in terms of prayer clause (a) subject to Applicants collectively paying Rs.50,000/- (Rupees Fifty Thousand only) to the Respondent No.2 within a period of six weeks and submitting the receipt thereof in the Registry of this Court. After the receipt was submitted to the Registry of this Court and is duly verified by the Registrar (Judicial), that this order will come into effect.

9. The Application is accordingly disposed of in above terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)