

JPP

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

CRIMINAL WRIT PETITION NO. 5491 OF 2019

Badriunnisa Mujahid Qureshi and Ors. ... Petitioners

V/s.

State of Maharashtra and Ors. ... Respondents

Ms. Kamini Yadav i/b. Rehana for the Petitioners

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

Ms. Tahera Qureshi for the Respondent No.3

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

DATE : 20 DECEMBER 2021

P.C. :-

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

2. By this Petition the Petitioners are seeking quashing of the FIR lodged by the Respondent No.3 - Parveen. The FIR is lodged under Section 498-A, 406, 323, 504 r/w. 34 of the Indian

Penal Code. The reason given for quashing of the FIR is that the dispute which is a matrimonial dispute is now settled and the Respondent No.3 – the complainant has given consent and affidavit is filed.

3. We have gone through the contents of the FIR and the statement of the Respondent No.2. The Petitioner No.1 is the mother-in-law of the Respondent No.3, the Petitioner No.2 is the sister-in-law of the Respondent No.3, the Petitioner Nos.3,4 and 5 are the brother-in-law and the Petitioner No.6 is the husband of the Respondent No.3. She has alleged that after her marriage on 7 January 2010 when she had gone to reside to her matrimonial house she was subjected to physical, mental cruelty and demands of dowry. An affidavit is filed by the Respondent No.3 wherein she has stated that the Petitioner No.6 – her husband and the Respondent No.3 are now living separately for more than nine years and divorced in the year 2018 and also re-married. It is stated that efforts were made for reconciliation through elders in the family and community and it was decided to dissolve the marriage and the Respondent No.3 has received all of her ornaments. She has also withdrawn the Domestic Violence Case No.219 of 2015 filed at the Court at Bandra. The Respondent No.3 has placed her consent on record by the affidavit sworn before the Officer of this Court with necessary identity documents. The consent is reiterated by the learned Counsel for the Respondent No.3 on instructions.

4. Having considered this fact situation and the consent affidavit of the Respondent No.3, it is clear that the genesis of the FIR is a matrimonial dispute which is now resolved. The parties have also re-married. In these circumstances, keeping the prosecution pending would be a needless harassment and quite obviously it will not result in any conviction. The dispute does not affect the society at large. Case is made out of exercise of extraordinary jurisdiction to quash the FIR as prayed for.

5. Accordingly, the Writ Petition is allowed in terms of prayer clause (a) which reads thus :-

“(a) That this Hon’ble Court be pleased to pass appropriate writ, order, direction, directing the Respondent Nos.1 and 2 to quash and set aside the FIR No. 174/2015 registered U/s. 498-A, 406, 323, 504, 506 of IPC dated 03/12/2015 and Charge-sheet No.1953 of 2016 on such terms and conditions this Hon’ble Court may deem fit and proper.”

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.