

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 38 OF 2022**

Diven Dilip Bhatia and ors.

....Applicants

Versus

1. The State of Maharashtra

2. Rachana Diven Bhatia

....Respondents

Dr. Samarth S. Karmarkar with Mr. U. U. Patil i/b. Karmarkar & Associates, Advocates for the Applicants.

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

Ms. Alpa Javeri, Advocate for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 29th APRIL, 2022.

P.C. :

1. Learned counsel for the applicants, at the outset, prayed for leave to amend the petition so as to correct the name of respondent No.2 as there was some typographical error. Leave as prayed for, is granted. Necessary amendment be carried out forthwith.

2. Heard learned counsel and learned APP appearing for the respective parties.

3. By way of the present application under Section 482 of the Code of Criminal Procedure, 1973, the applicants have prayed for quashing and setting-aside the FIR bearing C.R. No.254 of 2018 registered with Charkop Police Station at the instance of respondent

No.2, against the applicants for the offences punishable under Sections 498A, 406, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 as well criminal case arising out of the said FIR being C.C. No.3239/PW/2018 pending before Metropolitan Magistrate, 24th Court at Borivali, Mumbai.

4. The applicant No.1 and Respondent No.2 are husband and wife. Rest of the applicants are the family members of the applicant No.1 and in-laws of the Respondent No.2. The marriage between applicant No.1 and respondent No.2 was solemnized on 9th April, 2011 and they have a 6 year old child by name "Dhruv" from the said marriage. However, there was marital discord between the parties, which gave rise to filing of criminal as well as civil cases and the subject matter of the present application is one of them. In the meantime, applicant No.1 filed a Divorce Petition before the Family Court at Bandra, Mumbai bearing Petition No.A-100992 of 2019 and during the course of the proceedings, the matrimonial dispute amongst the parties was amicably settled and both the parties mutually filed Consent Terms dated 1st August, 2021 and upon compliance of the consent terms, the said marriage petition was to be converted into Petition under Section 13-B of the Hindu Marriage Act, 1955. The copy of the said Consent Terms is annexed at Page 63. As per clause (5) of the said consent terms, the applicant No.1 has agreed to pay the sum of Rs.15,00,000/- towards permanent alimony to

respondent No.2 and their son – Master Dhruv as full and final settlement. The said amount was to be deposited by way of demand draft in the Family Court and the respondent No.2 was entitled to withdraw and obtain the said amount of Rs.15,00,000/-, only upon compliance of the consent terms. Applicant No.1 has deposited the amount of Rs.15,00,000/- in the Family Court and annexed the copy of receipt at page 68 of the application. It is submitted only upon quashing and setting aside the subject FIR and criminal case, the amount of Rs.15,00,000/- would be released in favour of respondent No.2 and decree of divorce would be passed. Hence, the applicants are before this Court.

5. Thus, pending trial of the criminal proceedings, the parties have settled their dispute amicably, and in pursuance of an understanding arrived at between them, they have approached this Court for quashing the subject FIR and criminal case by consent. The applicants and respondent No.2 are present before this Court. They stated that they have no grievances against each other. The respondent No.2 has filed an affidavit dated 16th March, 2022. In paragraph 4, it is stated that the parties have agreed to resolve the dispute amicably taking into consideration their future. In paragraphs 5, 6 and 7, respondent No.2 has given her no objection for quashing and setting-aside the subject FIR as well as criminal case. The respondent No.2 is personally present before the Court. On being questioned, she specifically stated

that she has gone through the application and affidavit as well and has fully understood the contents thereof. She further confirmed that she has given no objection for quashing the subject FIR and criminal case out of her own free will and without there being any undue influence, pressure or coercion.

6. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386,** we are of the view that quashing of the criminal case/FIR would be in the interest of of the parties. Besides, no purpose would be served by keeping the criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject criminal case as well as the FIR are required to be quashed and set-aside.

7. Accordingly, FIR bearing C.R. No.254 of 2018 registered with Charkop Police Station, at the instance of respondent No.2, against the applicants for the offences punishable under Sections 498A, 406, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 as well criminal case arising out of the said FIR being C.C. No.3239/PW/2018

pending before Metropolitan Magistrate, 24th Court at Borivali, Mumbai are quashed and set-aside. The criminal application stands disposed of.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)