

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 51 OF 2019

1. Swanand Chandrashekhar Mahashabde
2. Chandrshekhar Trambak Mahashabde
3. Geeta Chandrashekhar Mahashabde
4. Meenakshi Mhapankar
5. Shobha Vijay Kulkarni ...Applicants

Versus

1. The State of Maharashtra
2. Kshitija S. Mahashabde ...Respondents

Mr. Abhishek Kulkarni i/b Mr. Satyajeet Dighe for the Applicants.

Mrs. A.S.Pai, P.P. a/w Mr. J.P.Yagnik, A.P.P for the Respondent-State.

Mr. Viresh Purwant for the Respondent No.2.

CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.
DATE : 20th OCTOBER, 2022

P.C. :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives

notice on behalf of the respondent No.1–State. Mr. Viresh Purwant waives notice on behalf of the respondent No.2.

3. By this application, the applicants seek quashing of the FIR bearing C.R. No. 271 of 2015 registered with the Naupada Police Station, Thane, for the alleged offences punishable under Sections 498-A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. The applicant No.1 is the husband of the respondent No.2 and the applicant Nos.2 and 3 are the in-laws of the respondent No.2 and the applicant Nos.4 and 5 are the sisters-in-law of the respondent No.2 respectively. It appears that the applicant No.1 and the respondent No.2 got married on 7th June, 2014. After marriage, the respondent No.2 started residing with the applicants at her matrimonial home. According to the respondent No.2, as she was physically and mentally harassed and as there was demand of money, she filed the aforesaid complaint which was registered vide C.R.No.

271 of 2015 with the Naupada Police Station, Thane. After investigation, chargesheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate, First Class, Thane, being R.C.C.No. 573 of 2016.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and filed a petition seeking divorce by mutual consent before the learned Judge, Family Court, Thane. We are informed that in 2019, Decree of Divorce, by mutual consent, was passed by the learned Judge. It appears that in the said petition, which was pending before the learned Judge at Family Court, Thane, Consent terms were filed before the said Court. In the said Consent Terms, the accused No.1 had agreed to pay a sum of Rs.5,00,000/- to the respondent No.2 by way of full and final settlement.

6. Learned Counsel for the respondent No.2 has also tendered an affidavit of the respondent No.2 dated 20th October, 2022, duly notarized before the Notary. Alongwith the said affidavit is

annexed a xerox copy of the aadhar card of the respondent No.2 duly attested by her. The said affidavit is taken on record. The respondent No.2, in the said affidavit has stated that the dispute has been amicably settled between her and the applicants and that Consent Terms were filed in the Family Court, Thane, pursuant to which, divorce by mutual consent was granted. She has further stated that in the said affidavit, that out of an amount of Rs.5,00,000/-, agreed to be paid by the applicant No.1 to her, she has received the first installment of Rs.1,00,000/- on 15th November, 2018; and the second installment of Rs.2,00,000/- by Demand Draft on 4th January, 2019. She has further stated that the applicant No.1 has deposited Rs.2,00,000/- in the Family Court, Thane and that she may be permitted to withdraw the same. Learned Counsel for the applicant No.1 states that the applicants have no objection if the respondent No.2 is permitted to withdraw the said amount of Rs.2,00,000/-, deposited by the applicant No.1 in the Family Court, Thane.

7. The respondent No. 2 is present in Court. Learned

Counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2. The same is taken on record. On questioning, she re-iterates what is stated by her in her affidavit, that she has received her stridhan and all her articles and that, she has no objection for quashing of the FIR, bearing C.R. No. 271 of 2015 registered with the Naupada Police Station, Thane.

8. The respondent No.2 has been identified by her lawyer and the learned APP has also verified the original aadhar card.

9. Considering the nature of dispute, the relations between the parties, the Consent Terms entered into between them, the affidavit of the respondent No.2 that she has no objection for quashing of the proceedings and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the application.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

10. The application is accordingly allowed and the FIR bearing C.R. No. 271 of 2015 registered with the Naupada Police Station, Thane and consequently, the proceeding arising from the said C.R. pending before the learned Judicial Magistrate, First Class, Thane, being R.C.C.No. 573 of 2016, are quashed and set-aside.

11. We permit the respondent No.1 to withdraw Rs.2,00,000/-, deposited by the applicant No.1, in the Registry of the Family Court, Thane, on furnishing proof of her identity.

12. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

13. All concerned to act on the authenticated copy of this order.

S. M. MODAK, J.

REVATI MOHITE DERE, J.