

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 70 OF 2019**

Abhijeet J. Hande	Applicant
Versus	
The State of Maharashtra and anr.	Respondents

Mr. Anurag Ghag, advocate for the applicant.
Ms. M. H. Mhatre, APP for the State.
Mr. Ashish Dubey, advocate for the respondent No.2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 18th FEBRUARY, 2022.

P.C. :

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

2. The application is filed seeking quashment of the FIR bearing C.R. No.I-145/2018 registered at Mulund Police State against the applicant at the instance of respondent No.2 for the offences punishable under Sections 498A, 406, 323, 504 and 506 of the Indian Penal Code, 1860 and, subsequently, by amending the application, a prayer was incorporated for quashment of proceedings being Case No.732/PW/2021 pending before learned Metropolitan Magistrate, 27th Court at Mulund, Mumbai.

SHUBHADA
SHANKAR
KADAM

Digitally signed
by SHUBHADA
SHANKAR
KADAM
Date:
2022.02.26
11:32:22 +0530

3. Perusal of the copy of the FIR reveals that within a short span of matrimonial life, there were issues between the couple and it led to further matrimonial discord. It seems that the parties were of the opinion that it would be in the better interest of the parties to part their ways instead of continuing the matrimonial life. Accordingly, an application was filed for grant of decree of divorce by mutual consent. Accordingly, consent terms were filed by the parties, wherein it was decided to withdraw the allegations made against each other unconditionally. The applicant agreed to pay to respondent No.2, an amount of Rs.1,50,000/- towards full and final settlement and the mode of payment is referred to in clause 6 of the consent terms which reads thus:

“6. That both the parties have mutually agreed upon the settlement amount of Rs. 1,50,000/-which shall be paid by applicant to the Respondent No. 2 in the following manner-

A. Rs. 50,000/- at the time of filing of Divorce application.

B. Rs. 50,000/- on the 2nd date of divorce application.

C. All gold ornament will be handover to the Respondent No. 2 at the time of quashing of FIR application.

D. Rs. 50,000/- at the final order in the divorce application.”

In clause 8 of the consent terms it is stated as under :

“8. That above terms both parties have decided to amicably settle all their disputes and to take divorce.

It is also decided that the parties will not file any future complaints against each other and families. “

4. Respondent No.2, who is present before this Court, on being queried, supported her statement referred to in clause 12 of the consent terms that the consent terms are filed at her free will and wish and she has no objection for quashing the FIR and the proceedings arising therefrom. This no objection of respondent No.2 is also reiterated in paragraph 3 of her affidavit dated 18th February, 2022.

5. 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 no purpose would be served by keeping the FIR and criminal proceedings pending except burdening the Criminal Courts which are already overburdened. Considering these facts, we are of the opinion learned counsel for the applicant has made out case for allowing the

application. The application is accordingly, allowed in terms of prayer clauses (c) and (f) which reads thus:

“(c) That the FIR registered by the Mulund Police Station against the applicant being C.R.No.I-145/2018 be quashed and set-aside.

(f) Record and Proceedigns in Police Case No.732/PW/2021 from the files of the Id. Metropolitan Magistrate’s 27th Court, Mulund be called for and this Hon’ble Court be pleased to quash entire proceedings.

The application stands disposed of accordingly.

6. At the outset, learned counsel appearing for respondent No.2 submitted that though he represents respondent No.2, vakalatnama could not be filed in this Court and within two weeks from today, vakalatnama would be placed on record of the matter. The statement is accepted.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)