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

CRIMINAL APPLICATION NO. 211 OF 2020

Dhaval Makhwana & Ors.

.. Applicants

Versus

The State of Maharashtra & Others.

..Respondents

.....
Mr. Nikhil Hemraj Seth for the applicants
Ms. Shilpa A. Joshi for the respondent no.2
Mr. K.V. Saste, APP for respondent no.1 - State
.....

**CORAM : PRASANNA B. VARALE &
G.A. SANAP, JJ.**

Date : March 25, 2022.

P. C. :

1. Heard the learned Advocate for the applicants, learned APP for the State and the learned Advocate for respondent no.2, who is informant.
2. Leave to amend the prayer to correct the name of the police station is allowed. Amendment be carried out forthwith.
3. On the report dated 2nd April, 2009 a Crime bearing No.1-198 of 2019 came to be registered against the applicants for offences punishable under Section 498A, 323, 504, 506 r/w 34 of the Indian Penal Code. The necessary facts for quashing of the FIR have been

stated in the application. Applicant no.1 is the husband of respondent no.2. It is stated in the report that after marriage, the respondent no.2 was subjected to mental and physical cruelty. She was fed up with day to day quarrels. The applicant no.1 made her life miserable and, therefore, she was constrained to lodge the report.

4. During the pendency of the application, the respondent no.2 filed the affidavit-in-reply dated 6th January, 2022. In the said affidavit, it has been categorically stated that in order to live a peaceful life in future, the applicant no.1 and the respondent no.2 have decided to separate from each other. They have filed the petition for divorce, which is pending. It is stated that immediately after their divorce they would proceed with their respective lives.
5. The learned Advocate for the applicants and the learned Advocate for the respondent no.2 submit that investigation is in progress. The Sessions Court has granted anticipatory bail to the applicants. In order to satisfy us about the *bonafides* of settlement, we have enquired with the respondent no.2, who is present before this Court. The respondent no.2 confirmed and reiterated the statements made in the affidavit. In view of the settlement, she has decided to get separated. She does not want to prosecute the complainant. It is submitted that the FIR came to be registered on her report. Perusal of the report would show that it was out come of the marital discord. It is to be noted that since the parties have settled their dispute amicably and decided to live their separate life, continuation of prosecution would exercise in futility.

6. In the above facts and circumstances and considering the reasons stated for the settlement, we do not find any reason to reject the prayer. On the basis of inquiry, we are satisfied that the settlement arrived at between the parties is *bona fide*. In the facts and circumstances, we are inclined to grant the prayer.
7. The petition is allowed. The FIR No. 198 of 2019 registered against the applicant at Kashimira Police Station is quashed and set aside.

[G.A. Sanap, J.]

[Prasanna B. Varale, J.]