

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 898 OF 2022

1. Junaid Naseem Dalvi
2. Naseem Kader Dalvi
3. Parveen Naseem Dalvi
4. Obaid Naseem Dalvi
5. Danya Naseem Dalvi

...Petitioners

Versus

1. The State of Maharashtra
2. Amira Junaid Dalvi

...Respondents

Mr. Shadab Khopekar for the Petitioners.

Mr. Hamza I. Sirguroh for the Respondent No.2.

Ms. S.D.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 16th SEPTEMBER, 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 service on behalf of the respondent No.1–State. Mr. Hamza I. Sirguroh waives service on behalf of the respondent No.2.

3 By this petition, the petitioners seek quashing of the FIR bearing C.R. No. 947 of 2021 registered with the M.I.D.C. Police Station, Mumbai, for the alleged offence punishable under Sections 498-A, 377, 323, 406, 504, 506 r/w 34 of the Indian Penal Code. In the said case, after investigation Police have filed chargesheet. In addition to the said C.R., proceedings were also initiated by the respondent No.2 before the learned Judicial Magistrate, First Class, Andheri by filing D.V.Complaint bearing No.371 of 2021.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.2 – Amira, petitioner Nos.2 and 3 are the in-laws and the petitioner Nos.4 and 5 are the brother-in-law and the sister-in-law of the respondent No.2. It appears that the petitioner No.1 and the respondent No.2 got married on 12th March, 2021 as per the

Muslim Personnel Law at Mumbai. It appears that soon after the marriage, certain domestic/matrimonial issues started between the parties. It appears that pursuant thereto, the respondent No.2 filed the aforesaid criminal complaint / FIR as against the petitioners.

5. It appears that post the filing of chargesheet, the parties have amicably settled their dispute. Pursuant to the said settlement, the respondent No.2 has withdrawn the domestic violence case i.e. D.V. Complaint No. 371 of 2021 filed by her, before the Andheri Court. It is also agreed by and between the parties that the petitioner No.1 will appear before the Darul Kaza, Mira Road on 19th September, 2022 and give his consent for divorce by mutual consent.

6. Learned Counsel for the petitioners, on instructions, states that the petitioner No.1 who is present in the Court would remain present before the Darul Kaza, Mira Road, on 19th September, 2022 and would give his consent for divorce by mutual consent.

7. Learned Counsel for the respondent No.2 submits that the respondent No. 2 has no objection if the proceedings i.e. the aforesaid C.R. and all consequential proceedings arguing thereto, are quashed and set-aside subject to the condition that the petitioner No.1 would remain present before the Darul Kaza at Mira Road on 19th September, 2022 and give his consent for divorce by mutual consent.

8. Learned Counsel for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 22nd August, 2022 duly notarized before the Notary. 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 i.e. she has no objection for quashing of the FIR bearing C.R. No.947 of 2021 registered with the M.I.D.C. Police Station, Mumbai.

9. Considering the nature of dispute, relations between the parties and the amicable settlement arrived at between them 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 petition.

10. The petition is accordingly allowed and the FIR bearing C.R. No. 947 of 2021 registered with the M.I.D.C. Police Station, Mumbai, and all consequential proceedings arising therefrom, are quashed and set-aside, subject to the condition that the petitioner No.1 remains present before the Darul Kaza, Mira Road on 19th September, 2022 and gives his no objection for divorce by mutual consent.

11. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

12. Stand over to 26th September, 2022 for recording compliance.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.