

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

WRIT PETITION NO. 4343 OF 2021

Mithun Kishore Patadia & Anr

...Petitioners

Versus

State of Maharashtra & Ors.

...Respondents

Mr. Rohaan Cama i/b Ms Sapana Rachure for the Petitioners.
Ms. Gayatri Gokhale a/w Ms Zainba Abdi for Respondent No. 3.
Ms. S. D. Shinde, APP for Respondent-State.

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

DATE : 01st MARCH, 2022.

P.C. :

. Heard learned Counsel for the Petitioners, Respondent No. 3 and the learned APP for the Respondent-State.

2. The Petitioners have approached this Court for seeking quashment of FIR No. 232 of 2007 came to be lodged at Charkop Police Station, Mumbai on 15th November, 2007, for the offence punishable under Sections 498-A r/w 34 of Indian Penal Code against Petitioner. It seems that subsequently Section 406 of Indian Penal Code was added against the Petitioners.

3. By approaching the Marriage Bureau, Respondent No. 3 expressed her willingness for suitable companion and accordingly by compliance of necessary formalities, the marriage between Petitioner No. 1 and Respondent No. 3 was solemnized on 06th November,

2006. There was exchanged articles between the parties in the marriage. Soon after the marriage, Petitioner No. 1 proceeded to UAE, Dubai, as he was working as a Sales Manager in a private company. It may not be necessary for us to refer the other details. Suffice to say that Respondent No. 3 was subjected to ill-treatment and harassment. It seems that Respondent No. 3 was also subjected to demand and aggrieved by the ill-treatment and demand, Respondent No. 3 approached the police authority and lodged the FIR against the Petitioners.

4. In due course, the Investigating Agency completed the task of investigation by filing the charge-sheet before the competent Court. The parties found that there is no chance of reunion and sought it feet to part their ways and accordingly petition was filed in the Family Court Bandra for divorce by mutual consent. The parties were of the opinion that there is hardly any chance of reunion as such decided to part their ways. The parties have also agreed with the terms of settlement and one term of settlement is to approach the Family Court, Bandra by filing petition for divorce by mutual consent. The terms submitted before the Family Court under caption "Minutes of the Order" and it is placed on record at Exhibit- F of the petition.

5. It would be useful for our purposes to refer certain important terms arrived at between the parties namely clauses 2, 3, 4 and 5 are in relation to certain flats situated in Ahmedabad, The State of Gujrat

and Mumbai, The state of Maharashtra respectively. We may refer to the other terms namely clauses 10, 11 and 12. It is specifically stated in clause 12 that “in the event of default by Mithun in making the above payment Sheetal is entitled for the recourse as provided in clauses 7 and 8 herein and can further file an application before this Court in the Writ Petition seeking setting aside of the order quashing the FIR No. 232 of 2007, against Mithun which shall be revived.” These terms of settlement are duly signed by the parties and their respective advocates. In support of these terms of settlement, an affidavit is also filed on behalf of Respondent No. 3 Sheeta Patadia. As the parties have decided to give an end to the legal battle and to live future life peacefully by parting their ways and as Respondent No. 3 expressed her free will of no objection for quashing the FIR and proceedings, no purpose would be served by keeping the criminal proceedings between the parties. The Hon'ble Apex Court also made observations in the similar situation in the case of **B.S.Joshi V/s. State of Haryana AIR 2003 SC 1386** .

6. Considering the above referred facts, we are of the opinion that learned Counsel for the Petitioners has made out a case for allowing the petition. Accordingly, the petition is allowed in terms of prayer clause 'a' and disposed of accordingly.

7. The parties to act upon an authenticated copy of this order.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)