

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

CRIMINAL APPLICATION NO.1115 OF 2021

1. Rakesh Vijay Kadam
 2. Vijay Vishwanath Kadam
 3. Tarabai Vijay Kadam (Deceased)
 4. Rajendra Vishwanath Kadam
 5. Pravin Adinath Kadam
 6. Shantabai Shankar Kasab (Deceased)
 7. Ramesh Vishwanath Kadam
 8. Adinath Vishwanath Kadam ...Applicants
- Versus
1. The State of Maharashtra
 2. Reshma Rakesh Kadam ...Respondents

Ms. Rupali L. Dhivar, for the Applicants.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1– State.

Mr. Mulchand J. Chetiwal, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.***

DATE : 4th 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. Chetiwal waives notice on behalf of the respondent No.2.

3. By this application preferred under Section 482 of the Criminal Procedure Code, the applicants seek quashing of the FIR bearing C.R. No. 269 of 2009 registered with the Pant Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 406 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; the applicant No.2 is the father-in-law of the respondent No.2; the applicant Nos.3 and 6 are deceased; applicant No.4, 7 and 8 are the uncle of the applicant No.1 and the applicant No.5 is the cousin of the applicant No.1. It appears that the applicant No.1 and the respondent No.2's marriage was solemnized on 26th December 2005 as per the Hindu rites and rituals in Mumbai. After marriage, the respondent No.2 started residing in her matrimonial

home. As there was marital discord/differences, the respondent No.2 lodged the aforesaid C.R. as against the applicants, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and presently the case is pending before the learned Metropolitan Magistrate, Court No.73 at Vikhroli, Mumbai, being C.C. No.824/PW/2011. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute. We are informed that the parties have already been divorced by a decree passed by the Family Court, Mumbai.

5. Learned Counsel for the respondent No.2 has filed an affidavit of the respondent No.2 dated 30th September 2022 duly affirmed before the Assistant Registrar, High Court, Appellate Side. The said affidavit is on page 92 of the application. In the said affidavit, the respondent No.2 has stated that she has no objection to the quashing of the aforesaid C.R. and consequently the proceeding pending before the learned Metropolitan Magistrate, Court No.73 at Vikhroli, Mumbai, being C.C. No.824/PW/2011.

6. Respondent No. 2 is present in Court. On being questioned, she re-iterates what is stated by her in her affidavit. 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. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

7. Considering the nature of dispute; the amicable settlement between them, that the applicant No.1 and the respondent No.2 have obtained a decree of divorce, no objection given by the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the application.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

8. The application is accordingly allowed and the FIR bearing C.R. No. 269 of 2009 registered with the Pant Nagar Police Station, Mumbai, and consequently the proceeding pending before the learned Metropolitan Magistrate, Court No.73 at Vikhroli, Mumbai, being C.C. No.824/PW/2011, are quashed and set-aside.

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

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.