

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

CRIMINAL WRIT PETITION NO. 1317 OF 2022

Roshan Benedict Lewis

...Petitioner

Versus

1. The State of Maharashtra

2. Divya Roshan Lewis

...Respondents

Mr. S. S. Borkar a/w Mr. Hitendra Parab for the Petitioner

Mr. S. S. Hulke, A.P.P for the Respondent No.1-State

Mr. Rajesh Pandey for the Respondent No. 2

PSI Mr. Mukesh R. Gholap from Mulund Police Station is present

**CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.
MONDAY, 21st NOVEMBER 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. Rajesh Pandey waives notice on behalf of the respondent No.2.

3 By this petition, the petitioner seeks quashing and setting aside of the FIR registered vide C.R. No. 87/2017 with the Mulund Police Station, Mumbai, as against the petitioner for the alleged offence punishable under Sections 498A, 406, 323, 504, 506 of the Indian Penal Code. Quashing is sought on the premise that the petitioner and the respondent No. 2 have amicably settled their dispute.

4 Perused the papers. The petitioner is the husband of the respondent No.2. The petitioner and the respondent No. 2 got married on 26.1.2014 at Thane as per Christian rites and rituals. Post marriage, the respondent No. 2 started co-habiting with the petitioner. As there was alleged ill-treatment and harassment by the petitioner, the respondent No. 2 lodged the aforesaid C.R. as against the petitioner. After investigation, charge-sheet was filed in the said

case and the case is pending before the learned 27th Metropolitan Magistrate Court, Mulund, being CC No. 511/PW/2017.

5 In the interregnum, during the pendency of the proceeding, the parties amicably settled their dispute and filed Consent Terms before the Sessions Court in the DV Criminal Appeal filed by the petitioner. Thereafter, pursuant to the Consent Terms, the petitioner and the respondent No.2 filed a petition under Section 10A of the Divorce Act before the learned Judge, Family Court at Bandra for dissolving their marriage by mutual consent. The Consent Terms entered into between the parties are at page 101 of the petition. According to the Consent Terms, the petitioner is to pay a sum of Rs. 5,00,000/- to the respondent No. 2 by way of full and final settlement. We are informed and which fact is not disputed by the learned counsel for the respondent No. 2, that the petitioner has paid a sum of Rs. 2,50,000/- to the respondent No. 2 and has deposited Rs. 2,50,000/- in the Family Court at Bandra. The said balance of Rs. 2,50,000/- is to be paid to the respondent

No.2, at the time when the judgment is passed in the proceeding pending before the Family Court.

6 Learned counsel for the respondent No. 2 states that the respondent No. 2 has filed her consent affidavit which is at page 129 of the petition. In the said consent affidavit, the respondent No. 2 has stated that she has no objection to the quashing of the aforesaid proceeding, in view of the amicable settlement between the parties.

7 Respondent No. 2 is present in Court. Learned counsel for the respondent No. 2 has tendered a self attested photocopy of the Aadhar card of the respondent No. 2. The same is taken on record. Learned counsel for the respondent No.2 identified her. Learned A.P.P has verified the original Aadhar Card of the respondent No.2. On being questioned, the respondent No.2 reiterates what is stated by her in her consent affidavit. Both parties agree to withdraw the proceedings initiated by each against other.

8 Considering the nature of dispute, the relation between the parties, the amicable settlement arrived at between the parties, the consent affidavit of the respondent No.2 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.

9 The petition is accordingly allowed. The FIR bearing C.R. No. 87/2017 registered with the Mulund Police Station, Mumbai, as against the petitioner and consequently the proceeding pending before the learned 27th Metropolitan Magistrate Court, Mulund, being CC No. 511/PW/2017, are quashed and set-aside.

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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.