

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1092 OF 2022**

Saurabh Anshuman Dwivedi and ors.Petitioners

Versus

The State of Maharashtra and anr.Respondents

Ms. Nityoah S. Mehta along with Ms. Ruchi Turakhia i/b. Nityoah Suneel and Associates, advocates for the petitioners.

Mr. J. P. Yagnik, APP for respondent -State.

Ms. Divya Parab, advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
S. M. MODAK, JJ.**

DATE : 8th APRIL, 2022.

P.C. :

1. Heard learned counsel appearing for the petitioners, learned APP for the State and learned counsel appearing for respondent No.2. Petitioner Nos.1, 4 and 5 are present before the Court. Respondent No.2 is also present before the Court. It is submitted before this Court that since petitioner Nos.2 and 3 are in their advanced age viz. 70 and 60 years old respectively, they are unable to remain in present before this Court but to show their bona fides, they are available by virtual mode.

2. Learned counsel for the petitioners as well as learned counsel for respondent No.2 submitted before this Court that the parties have arrived at settlement and consent terms are also placed on record.

Respondent No.2 has filed an affidavit-in-support of the consent terms. A copy of the FIR is placed on record at Exhibit -B, Page 31. It seems that the marriage between petitioner No.1 and respondent No.2 was solemnized on 4th December, 2015 and within a span of one year only, there was a matrimonial discord between the parties. Respondent No. 2 alleged in her report that she was subjected to ill treatment. As the parties have settled their dispute, it may not be necessary for us to refer to other details in the report. Perusal of the Consent Terms placed on record at Exhibit-A, page 28, filed before the learned Judge of Family Court of Mumbai at Bandra in M.J.Petition No.A-258 of 2017 shows that the parties have decided to withdraw unconditionally all the allegations levelled against each other as well as against the family members. It is stated in clauses 3, 4 and 5 of the consent terms as under :

“3. That the Respondent does not have any claim of jewellery and or stridhan against the Petitioner or any other member of his family. The Petitioner also does not have any claim of jewellery.

4. That on the F.I.R of 498A being quashed, the mutual consent petition will be later up in the family court for final evidence and claim affidavit will be filed on the F.I.R. being quashed.

5. That Respondent has agreed to a full and final settlement towards past, present and future permanent alimony including any claim of residence an amount of Rs.15,00,000 (Rupees Fifteen Lakhs only) by D.D. to be paid to the Respondent by the Petitioner on the date of Decree of Divorce.”

3. Respondent No.2 is personally present before this Court. On a query being put to her as to whether the consent terms arrived between the parties are at her own free will and without there being any influence or coercion of any kind, she replied in affirmative. As the parties have decided to part their ways and respondent No.2 has filed an affidavit-in-support of the consent terms and has accordingly agreed before this Court that she is having no objection to quash the FIR and the proceedings arising out of the FIR, in our opinion, the continuity of FIR and the proceedings would be only a futile exercise.

4. It can, thus, be seen that the matter has been amicably settled between the parties. Perusal of the complaint, makes it clear that the allegations are totally personal in nature. In these circumstances and especially in view of the law laid down by the Apex Court in the case of **B.S.Joshi versus State of Haryana AIR 2003 SC 1386**, we are of the view that no purpose would be served by keeping the criminal

proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and in the interests of justice, the subject FIR and the proceedings arising out of the said FIR are required to be quashed and set-aside. The petition is, accordingly, made absolute in terms of prayer clause (a) which reads thus :

a) That this Hon'ble Court may be pleased to quash and set aside the F.I.R.No.127 of 2017 dated 26.04.2017 registered by the Versova Police Station and all other criminal proceedings arising therefrom in respect of the present Petitioners in view of consent terms dated 18.02.22 filed in the Hon'ble Family Court on 24.03.22;"

The writ petition stands disposed of.

5. Learned counsel for the respondent number 2 submitted that Vakalatnama has not been filed in this Court on behalf of respondent No. 2. She undertakes to file the same within one week from today. The statement of learned counsel is accepted.

6. All concerned to act upon a copy of this order duly authenticated by the registry of this court.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)