

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

CRIMINAL APPLICATION NO.399 OF 2021

Deepak Udayraj Upadhyay And Ors.	... Applicants
Vs.	
State of Maharashtra And Anr.	... Respondents

Mr. Ram Mani Upadhyay, Advocate for Applicants.
Ms. A. S. Pai, PP for Respondent – State.
Mr. Tiwari D. T., Advocate for Respondent No.2.

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

DATE : 22nd April, 2022

P.C. : (Per. S. M. Modak, J)

1. Heard Mr. Ram Upadhyay, learned advocate for the Applicant, Mr. Tiwari, learned advocate for Respondent No.2 and Ms. A. S. Pai, learned Public Prosecutor for Respondent - State.

2. The Applicant No.1 Deepak and Respondent No.2 Roli are the spouses. Their marriage was solemnized on 11th May, 2018 at village Barmoni, Tq. Dnyanpur, District Sant Ravidar Nagar, Badhoi, Uttar Pradesh. After the marriage the Respondent No.2 came to Dahisar, Mumbai for cohabitation with the Applicant No.1. Applicant No.2 Sunil

is the brother of Applicant No.1 Deepak. Whereas Applicant No.3 Seema is the wife of Applicant No.2 Sunil.

3. The father of Respondent No.2 performed the marriage as per their custom and also gifted the articles. In the house at Dahisar on the ground floor, the Applicant No.3 Sunil and Seema used to reside, whereas the Respondent No.2 used to sleep in the loft along with Applicant No.1. It is alleged that Applicant No.3 Seema asked the Respondent No.2 to bring Rs.3 Lakhs from her mother. There were also other instances. She has narrated this incident to her father. In turn her father narrated the incident to Omkarnath Upadhyay, who is a uncle of Applicant No.3 Seema. He resides at Ambarnath. There was also meeting conducted in the house of Omkarnath Upadhyay. However, family members of Applicants have not attended meeting. After 4 days another meeting was conducted at Ambarnath. However, no solution can be arrived at. Applicant No.2 Sunil demanded the ornaments given by them to Respondent No.2.

4. Ultimately, Respondent No.2 filed a complaint with Nirmalnagar Police Station, Mumbai and it is registered as an offence bearing No.142 of 2019 on 17th April, 2019 for the offences punishable under Sections 498-A, 406, 323, 504, 506 read with 34 of Indian Penal

Code against this Applicants. A charge sheet is filed and it is numbered as CC No.80/PW/2020 pending in the Court of 32nd Metropolitan Magistrate Bandra, Mumbai.

5. During pendency of this proceedings, the parties have settled their dispute and both the spouses have decided to separate their marital tie by taking Divorce Petition by consent is filed before Bandra Family Court. One of the term is extending co-operation by Respondent No.2 for quashing of the FIR.

6. The copy of mutual consent divorce Application is filed. So also the Respondent No.2 has filed an affidavit reiterating the terms of settlement. The Applicant No.1 has paid Rs.1 Lakh 50 thousand to Respondent No.2 by way of permanent alimony and she had also received back the ornaments. It is mentioned in Para No.7 of the mutual Application. Its copy filed on Page No.16.

7. As the parties have decided to separate their marital tie and to start a new life, the continuance of the criminal proceeding will come in their way of starting a new life. In view of that case is made out for quashing. Hence the Order :-

ORDER

- a) Criminal Application No.399 of 2021 is allowed.
- b) CC No.80/PW/2020 pending in the Court of 32nd M.M.Court at Bandra, Mumbai arising out of FIR No.142 of 2019 registered with Nirmal Nagar Police Station, Mumbai for the offences punishable under Sections 498-A, 406, 504, 506, 323 read with Section 34 of IPC is quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)