

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

CRIMINAL APPLICATION NO. 408 OF 2021

Imran Azham Khan	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Ammaar S. I/by Siddiquee and Associates - Advocate for the Applicant
Ms. Sachin Lodha i/by M/s. Tauban F. Irani – Advocate for the Respondent
No. 2.

Ms. A. S. Pai - PP for the Respondent-State

CORAM :	PRASANNA B. VARALE & S. M. MODAK, JJ.
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DATE :	06th MAY, 2022
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P. C. :-

. Heard the learned advocate for the Petitioner-Husband and learned APP for the Respondent-State and learned Advocate for the Respondent No. 2 – first informant wife. The learned counsel for the Respondent No. 2 undertakes to file power during the course of day. This Petition for quashing on the basis of settlement in between both the spouses executed before Family Court Mumbai at Bandra. It was executed on 19/03/2021 before Marriage counsellor Family Court, Mumbai. Copy of the same is filed on record. The proceedings before the Family Court at the instance of wife are pending and the parties have decided to move that Court once the F.I.R. is quashed.

2. As per the consent terms, the Respondent No. 2 has agreed for quashing the F.I.R. by consent. The F.I.R. was registered on 25/10/2018 for the offence punishable under Section 498A, 406, 324, 323, 504, 506 of the Indian Penal Code at Oshiwara Police Station.

3. There is an allegation that first informant was ill treated by the Petitioner on account of demand of money and for various reasons including consuming liquor, for purchase of articles, and for having extra marital affairs with any lady. The Respondent No. 2 could not sustain harassment and hence she lodged complaint on 25/10/2018.

4. Thereafter the parties have settled the dispute about flat which is at Rohit Apartments, 3X Lane Lokhandwala Complex, Andheri West Mumbai was standing in the name of the Petitioner, his mother and Respondent No. 2. As per the consent terms, it has been agreed that flat would be transferred in the sole name of Respondent No. 2. It finds place in Clause no. 4 of the Consent terms. Respondent No. 2 is present through virtual mode and she has given consent for quashing. She has also filed affidavit thereby supporting the prayer for quashing. We have read her affidavit and also copy of the consent terms executed on 19/03/2021. At that time there was only assurance of transfer of flat in her name. However during the meantime flat has been transferred in her name. We want the Petitioner and Respondent No. 2 to file an affidavit to that effect within a

period of two weeks from today.

5. Respondent No. 2 to file affidavit stating that flat in question is transferred in the exclusive name of Respondent No. 2 and if Affidavit is not filed the prosecution will be revived.

6. We find no reason to continue the prosecution as matrimonial dispute is settled. Hence the Order :-

ORDER

(i) The Criminal Application No. 408 of 2021 is allowed

(ii) F.I.R. bearing Crime No. 472 of 2018 registered at Oshiwara Police Station is quashed and set aside.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)