

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2297 OF 2021

Mr. Amir Habib Naru & Ors.

....Petitioners

Versus

The State of Maharashtra & Anr.

....Respondents

Mr. Saiyed Sahil M. Nagamiya for the Petitioners.

Mr. K.V. Saste, APP for the Respondent-State.

Mr. Tahir Hussain i/b. Nasima D. Battiwala for Respondent No.2.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 1st MARCH, 2022.

P.C.:

1. Heard.

2. The Petitioners have approached this Court for seeking quashment of FIR bearing C.R.No.139/2019 registered on 06.07.2019 with V.P. Road Police Station as well as the proceeding arising out of the said FIR bearing C.C.No.400566/PW/2019 for the offences punishable u/s.498(A), 406, 354, 409, 323, 504 and 506 of the Indian Penal Code, 1860 against the Petitioners.

3. The few facts giving rise to the petition can be summarized as follows:-

Respondent No.2 is a wife of Petitioner No.1. Petitioner Nos.2 to 4 are the in-law of Respondent No.2. The marriage between Petitioner No.1 and Respondent No.2 was solemnized on 27.11.2016 as per Islam Rights & Rituals in his native place at Sikar Rajasthan. At the time of marriage, the parents of Respondent No.2 had given her gold ornaments and other articles worth Rs.4.5 Lakhs. After marriage, Respondent No.2 came to the house of the Petitioners at Meera Road and started residing with the Petitioners for cohabitation. Soon after the marriage, there were differences and discord between the couple on various counts. It is alleged that Respondent Nos.2 to 5 used to find fault of the work of Respondent No.2. They used to abuse and insult Respondent No.2. Respondent No.2 tolerate in the treatment meted out to her by the Petitioners. In the year 2018 Respondent No.2 delivered a baby girl by name Aribah. After the birth of daughter, there was no improvement in the conduct and behaviour of the Petitioners. They used to take doubt over the character of Respondent No.2. The parents of Respondent No.2 tried to settle the dispute, but the Petitioners used to abuse, assault and cause harassment to Respondent No.2. Hence, she lodged FIR with V.P.Road Police Station on 06.07.2019.

4. On the basis of FIR, Crime bearing No.139/2019 came to be registered against the Petitioners. During the pendency of the case, the parties have decided to settle their disputes amicably with the help of their friends and relatives. Learned counsel for the Petitioners submits that the petitioners and Respondent No.2 agreed to settle the dispute once for all. Petitioner No.1 and Respondent No.2 have decided to dissolve their

marriage with consent. Accordingly, the terms of settlement were agreed between the parties. The consent terms are produced on record. It is signed by the petitioners, Respondent No.2 and their advocates.

5. Petitioner No.5 has given power of attorney to her brother Mr.Yusuf Habib Naru to file the present Petition.

6. The said affidavit cum power of attorney is taken on record and marked 'X' for identification. In the settlement deed, Respondent No.2 has categorically stated that she has no complaint or grievance, monetary or of any other nature whatsoever against the Petitioners or any of their family members have not filed any other legal proceeding against the Petitioners or their family members.

7. The parties have agreed that Respondent No.2 shall be the natural and legal guardian of Aribah and Petitioner No.1 is hereby relieved of all obligations as father and legal guardian of Aribah. Petitioner No.1 and Respondent No.2 agreed to declare their marriage stands dissolved by mutual consent. The parties have also agreed all other relevant and general terms which are enumerated in Para 11 to 17 of the consent terms.

8. On a specific query put to Respondent No.2 she reiterates that on her own will and wish the affidavit in reply is filed. As such she is not raising any objection in quashing the FIR and proceedings against the Petitioners.

9. Considering the above referred facts, we have the opinion that continuation of the proceedings arising out of Crime No.378 of 2018 would

be nothing but an act of futility and we are of the opinion that the learned counsel for the Petitioners has made out a case for allowing the petition.

10. 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 except burdening the Criminal Courts which are pending already overburdened. In that view of the matter and in the interests of Justice, the subject FIR as well as the proceeding are required to be quashed.

11. In view of the above, the petition is allowed in terms of prayer clause (a) and is disposed of as such.

12. The Terms of Settlement as recorded in Consent Terms dated 16th February, 2022 executed between the Petitioners and Respondent No.2 are to be treated as part of the present Order and in light thereof Case No.07/DC/2019 filed by the Respondent No.2 before the 4th Court of Ld. Metropolitan Magistrate at Girgaon Mumbai under the Domestic Violence Act 2005 is also quashed and dismissed.

13. The Petitioner No.1 and the Respondent No.2 are at liberty to jointly and/or severally place a copy of the consent terms dated 16th February, 2022 and the present Order before the Civil Judge Senior Division at Thane in Suit No.2 of 2019 and forthwith obtain a formal decree of divorce by mutual consent. The statement of the Respondent No.2 to extend all due cooperation, remain personally present and execute all necessary documents for the purpose of securing the final decree of

divorce/dissolution of marriage by mutual consent in accordance with law for effective dissolution of marriage between the Petitioner no.1 and Respondent No.2 is accepted as an undertaking to this Hon'ble Court.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)