

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

CRIMINAL WRIT PETITION NO. 2385 OF 2022

1. Mr Brian Selvester Stephen
Age: 41 Occupation: Driver
2. Mrs Merlyn Alva
Age: 39 Occupation: Service
3. Mr Hudson Alva
Age: 51 Occupation: Service
4. Mr Bernard Christopher Stephen
Age: 38 Occupation: Service
5. Mrs Sherin Solomon (alias Sherin Stephen)
Age: 32 Occupation: Service

All Residing At – 302, Yashomati Building,
Jayhind Colony, Gupte Road, Dombivali (West)
(Canada R/A 11, Brethby St., Caledon
ON L7C 3W2)

... Petitioners

Versus

1. State of Maharashtra
through Vishnu Nagar Police Station,
Kalyan, Thane.
2. Mrs Deepali Brian Stephen
Age: 46 Years, Occupation: Housewife,
R/a – A Wing, 101, Milenium Park,

Mahatama Phule Road,
Dombivali (West)

... Respondents

...

Mrs Manisha Jagtap a/w Ms Rhea Francis and Mr Karan Rasane,
Advocates for the Petitioners.

Mr J. P. Yagnik, APP for State.

Ms Leena Patil, Advocate for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.**

DATE : 28th NOVEMBER, 2022

ORDER (Per R. N. Laddha, J.) :

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. The present petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973, is filed to quash the First Information Report No. I-84 of 2017 (hereinafter referred to as 'FIR', for short) dated 30th April 2017, registered at Vishnu Nagar Police Station, Dombivali, Thane, at the instance of Respondent No.2, against the

present Petitioners for the offences punishable under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code. In the said FIR, it is alleged that the Petitioners harassed and ill-treated her. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. Petitioner No.1 is the husband, Petitioner No.2 is a sister-in-law and Petitioner Nos. 3 and 4 are the brother-in-law, respectively, of Respondent No.2. Petitioner No.5 is the wife of Petitioner No.4. It revealed from the record that after marriage, Respondent No.2 started residing at her matrimonial home with the Petitioners. Post marriage, Respondent No.2 has alleged harassment and ill-treatment by the Petitioners, pursuant to which she lodged the FIR above against the Petitioners. Respondent No.2 had also filed a petition for divorce before the learned District & Sessions Court, Kalyan being Marriage Petition No. 85 of 2018, on 29th April 2022. After that, Petitioner No.1 and Respondent No.2 mutually agreed to dissolve their marriage by filing a joint application before the learned District Judge, Kalyan, under the provisions of Section 28 of the Special Marriage Act and accordingly, they filed mutual consent divorce application wherein Petitioner No.1 was agreed to pay a one-time settlement amount of Rs.15,00,000/-. The amount was duly deposited by Petitioner No.1 in the District and Sessions Court, Kalyan.

5. During the pendency of the aforesaid FIR, we are informed that the parties have resolved their dispute amicably. The learned Counsel for the Petitioners and the learned Counsel for the Respondent No.2 submitted that Petitioner No.1 and Respondent No.2 have mutually agreed to dissolve their marriage and separate amicably. Learned Counsel for the Respondent No.2 has filed consent affidavits of Respondent No.2 dated 14th June 2022 and 4th August 2022, duly affirmed before the Notary. It is stated in the affidavits that she has no objection to quashing the aforesaid FIR, subject to payment of the settlement amount of Rs.15,00,000/- which was deposited by Petitioner No.1 before the District and Sessions Court, Kalyan. Petitioner No.1 has agreed and has no objection to the payment of the settlement amount of Rs.15,00,000/-, already deposited in the District and Sessions Court, Kalyan, as a settlement amount, to Respondent No.2. Statement of Petitioner No.1 to that effect is accepted as an undertaking to this Court. Respondent No.2 is present in person. On being questioned, she reiterates what is stated in the affidavits. The parties assure that they will abide by the terms and conditions set out in the mutual consent divorce application filed before the District and Sessions Court, Kalyan.

6. The learned Counsel for Respondent No.2 tendered a

photocopy of the Aadhar Card of Respondent No.2, duly attested by her. The learned APP has verified the original Aadhar Card. The photocopy of her Aadhar Card is taken on record. Respondent No.2 has been identified by her Counsel. We are informed that the charge sheet has not yet been filed.

7. The learned APP for Respondent No.1 submits that appropriate orders may be passed.

8. The dispute being matrimonial is a private dispute, and in view of the above-referred facts and the judicial pronouncements of the Apex Court in this regard in ***Gian Singh Vs. State of Punjab & Anr.*¹** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*²**, we see no impediment in allowing the petition in terms of prayer clause (b), which reads thus.

“B. The Hon’ble Court may be pleased to issue writ of mandamus and/or any other appropriate writ and/or direction and/or order and thereby quash the F.I.R. NO. I-84 of 2017 dated 30.04.2017 under Section 498(A), 323, 504, 506 I.P.C., registered with the Vishnu Nagar Police Station, Dombivali, Kalyan District, Thane in view of the consent terms entered into between the parties as recorded in the aforesaid Mutual Application filed by the Petitioner and Respondent No.2 dated 29.04.2022 filed before the Learned

1 (2012)10 SCC 303

2 (2014) 6 SCC 466

Sessions Court, Kalyan which is annexed as Exhibit C to this Petition.”

9. Rule is made absolute. There shall be no order for costs.
10. Learned Counsel for Respondent No.2 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.
11. All concerned parties are to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN DHARMENDER
PRITHIANI
Date: 2022.12.05
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