

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2267 OF 2013

1. Prabhakar Balkrishna Shanbhag
Age – 78 years, Occupation : Retired
R/at. H-4, Shri Saraswati Co-operative
Housing Society, Near Acharya College,
N.G.Acharya Marg, Chembur, Mumbai
400 071.

2. Smt. Suchita Shrikant Nayak
Age – 52 years, Occupation : Household
R/at A-502, Ashima Tower, Opposite
Sandesh Press, Vastrapur, Ahmedabad
380054. Gujarat.

3. Smt. Smita Sunil Nayak
Age – 46 years, Occupation Household
R/at. 3, Saubhagya Society, 356
S.K.Bole Marg, Near Portuguese
Church, Dadar, Mumbai – 400 028.

4. Shri. Shrikant Nayak
Age – 59 years, Occupation Service
R/at. A-502, Ashima Tower, Opposite
Sandesh Press, Vastrapur, Ahmedabad
380054, Gujarat.

5. Shri. Sunil Nayak
Age – 53 years, Occupation : Service
R/at 3, Saubhagya Society, 356
S.K.Bole Marg, Near Portuguese
Church, Dadar, Mumbai – 400 028.

...Petitioners

Versus

1. The State of Maharashtra

2. The Police Inspector
Govandi Police Station, Chembur,
Mumbai.

3. Smt. Preeti Rajesh Shanbhag
Age – 45 years, Occupation – Housewife
R/at H-4, Shri. Saraswati Co-operative
Housing Society, Near Acharya College,
N.G.Acharya Marg, Chembur, Mumbai
400 071.

...Respondents

Mr. Sagar Kursija i/b Mr. Tejas Deshmukh for the Petitioners.

Mrs. J.S.Lohakare, A.P.P for the Respondent-State.

Mr. Tukaram Koyande, PI, Govandi Police Station.

CORAM : REVATI MOHITE DERE &
V. G. BISHT, JJ.
DATE : 10th JUNE, 2022

: ORAL JUDGMENT :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal.
3. By this petition, the petitioners seek quashing of the First Information Report (FIR) dated 18th December, 2012, bearing C.R.No.275

of 2012 registered with the Govandi Police Station, Mumbai, for the alleged offences punishable under Sections 498, 406 r/w 34 of the Indian Penal Code.

4. Learned Counsel for the petitioner states that during the pendency of this petition, the petitioner No.1 – Prabhakar Balkrishna Shanbhag and the respondent No.3 – Preeti Rajesh Shanbhag filed Consent Terms in a suit, being S.C.Suit No. 5334 of 2012, filed by the petitioner No.1 as against the respondent No.3. Learned Counsel for the petitioner has filed an additional affidavit of the petitioner dated 23rd September, 2021, setting out the same. A copy of the Consent Terms entered into between the petitioner No.1 – Prabhakar Balkrishna Shanbhag and the respondent No.3 – Preeti Rajesh Shanbhag is annexed as Exhibit A-1 to the said additional affidavit.

5. Perused the papers. This Court vide order dated 12th December, 2013 whilst issuing notice to the respondents, had directed the investigating officer to proceed with the investigation, however, not to file final report. The said interim order was continued from time to time. It appears that the petitioner No.1 – Prabhakar Balkrishna Shanbhag had also filed a civil suit in the City Civil Court, Greater Mumbai, being S.C. Suit

No. 5334 of 2012 as against the respondent No.3 and others, seeking perpetual injunction restraining the respondent No.3 and others from disturbing his peaceful possession over the suit premises. It appears that in the said suit, the petitioner No.1 i.e. the plaintiff in the said suit and the respondent No.3 – Preeti Rajesh Shanbhag entered into the Consent Terms. The respondent No.3 – Preeti Rajesh Shanbhag is the first informant in the present FIR, of which, quashing is sought. Para 3 of the said Consent Terms dated 22nd November, 2014 reads as under;

“3. It is declared by the plaintiff and defendants that the plaintiff and others has filed quashing petition before the honorable high court bearing Criminal WP No. 2267 of 2014 for quashment of the criminal complaint and or FIR bearing No. 275 of 2012 filed before Govandi Police Station, Mumbai by defendant No.2 against the plaintiff and others and it is agreed and undertaken by the defendant No.1 and 2 that the defendant No.1 and 2 shall file necessary affidavit; and or applications as the case may be thereby giving their consent for quashing of the FIR filed by the plaintiff and others before the honorable high court in criminal WP No. 2267 of 2014.”

6. Since none appeared on behalf of the respondent No.3 – Preeti Shanbhag, despite notice, we vide order dated 6th June, 2022, directed the concerned officer of the Govandi Police Station to record the statement of the respondent No.3 – Preeti Shanbhag, as to whether she intends to pursue the aforesaid Writ Petition and/or whether she had any objection for quashing of the FIR, which is impugned in the aforesaid petition, having

regard to the Consent Terms entered into by her with the petitioner No.1 – Prabhakar Balkrishna Shanbhag. We had directed the police to record the statement of the respondent No.3 and place the same before this Court on the next date i.e. on 10th June, 2022 i.e. today.

7. Accordingly, the learned APP has tendered the original statement of the respondent No.3 – Preeti Shanbhag dated 6th June, 2022 recorded by the Police Inspector. The said statement is taken on record and marked '**X-for identification**'. In the said statement, the respondent No.3 – Preeti Shanbhag has stated that she has received her ornaments and that, she has settled the matter and that, she has no objection if the aforesaid petition is allowed.

8. There is no impediment in quashing the FIR, since the FIR is an outcome of a matrimonial dispute and having regard to the no objection given by the respondent No.3 – Preeti Shanbhag, to the quashing of the same. In view of the Consent Terms and the statement so recorded of the respondent No.3 – Preeti Shanbhag, the aforesaid petition be allowed. Accordingly, the FIR being C.R.No. 275 of 2012 registered with the Govandi Police Station, Mumbai, for the alleged offences punishable under Sections 498, 406 r/w 34 of the Indian Penal Code and all consequential

investigation stands quashed.

9. Rule is made absolute on the aforesaid terms and the petition is accordingly disposed of.

10. All concerned to act on the authenticated copy of this order.

V. G. BISHT, J.

REVATI MOHITE DERE, J.