

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

UMESH
SHRINIWAS
MALANI

WRIT PETITION NO. 3308 OF 2021

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Gayatri Bhalchandra Deo Alias
Gayatri Rutuparn Jadhav through
POA Holder Bhalchandra Deo ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

WITH

WRIT PETITION NO. 3312 OF 2021

Omkar Bhalchandra Deo through
POA Holder Bhalchandra Deo ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

WITH

WRIT PETITION NO. 3313 OF 2021

Bhalchandra Chintaman Deo ...Petitioner

Versus

The State of Maharashtra & Ors ...Respondents

- Mr. Ajinkya M. Udane for the Petitioners.
- Mr. D. J. Dalal for Respondents.
- Ms. S.D. Shinde, APP, for the Respondent – State.

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

DATE : MARCH 11, 2022.

PER COURT :

1. At the outset, we may state that as all these Petitions are arising out the same FIR, are tagged and heard together. With the consent of learned Counsel appearing for respective parties, Writ Petition No. 3312 of 2021 is taken as lead Petition.

2. The Petitioners are before this Court seeking quashment of the FIR bearing Crime No. 36 of 2021 registered at Koregaon Park Police Station on 19.03.2021, for the offences punishable under Sections 498-A, 504, 506 read with 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act and the proceedings arising out of the said FIR.

3. The sum and substance of the report lodged at the instance of Respondent No. 2 is, marriage between the Respondent No. 3 and the Petitioner – Omkar Deo in Writ Petition No. 3312/2021 was solemnized on 29.12.2016 at Pune. It seems that the Respondent No. 3 and Petitioner – Omkar came in contact with each other sometime in the year 2011 and in the year 2016 Petitioner Omkar submitted his proposal for marriage to Respondent No. 3. Petitioner Omkar post marriage, proceeded to USA on account of his employment.

Respondent No. 3 was also prosecuting her higher studies in foreign country. It was stated in the report that though marriage was solemnized as per the Special Marriage Act, 1954. The family members of Petitioner – Omkar were insisting upon for fresh marriage ceremony. The report further refers to the demands raised by Omkar and his family members i.e. the other Petitioners. Then there are certain allegations in the report. Ultimately, it is stated in the report that the Respondent No. 3 was continuously subjected to harassment and ill-treatment at the hands of Petitioners.

4. Perusal of the material placed on record further shows that vide order dated October 14, 2021, the parties were permitted to subject themselves to a mediation process for an amicable settlement and the parties agreed for subjecting themselves to sole mediator. Accordingly, former judge of this Court Dr. Shalini Phansalkar-Joshi was requested to act as sole mediator.

5. Learned Mediator was successful in settling the dispute between the parties. The terms of the

agreement duly signed by the parties as well as the learned Mediator, are placed on record. The same is taken on record and marked 'X' for identification.

6. In clause 'D' of the terms of agreement there is a reference in respect of payment of certain amount to Respondent No. 3 – Yugandhara Potekar. The mode of payment is also referred to in a tabular form. The reference is also made about the waiver of the right on property i.e., movable or immovable as well as vehicle, jewelry articles, ornaments, etc. in clauses F and G. The parties also reserved the right for taking appropriate steps in case of failure to comply the terms arrived at between the parties. Ultimately, the couple decided to part the ways and lead an independent peaceful life without causing any disturbance in each other's life in any way.

7. The parties were virtually present before this Court and on a query made to Respondent No. 3 – Smt. Yugandhara Potekar as to whether the terms are agreed and settled by her will and wish without their being no pressure or otherwise, the Respondent No. 3 replied in affirmative and submitted that on her own will and wish

she had participated in the mediation process and agreed to the terms settled between the parties.

8. Considering all these facts, the facts emerged from material placed before this Court is now that the parties have adopted an approach of forget and forgive and are desirous of leading peaceful future life.

9. It can, thus, be seen that the matter has been amicably settled between the parties. There is no element of public law involved in the crime. The offence alleged cannot be said to have any impact on the society.

10. As per the petitioners, the parties have settled the matter, and parted their ways and have decided to keep harmony between them. The compromise records that they have no grudge against each other and the complainant has specifically agreed that he has no objection if the FIR in question is quashed. Further, both the parties have undertaken not to indulge in any litigation against each other and withdraw all the complaints pending between the parties before the court. As they do not intend to proceed with any

criminal case against each other, on that basis the submission of the petitioner before the High Court was that the continuance of the criminal proceedings in the aforesaid FIR/proceeding will be a futile exercise and mere wastage of precious time of the court as well as investigating agencies.

11. In these circumstances, and especially, in view of the law laid down by the Apex Court in the case of Madan Mohan Abbot vs. State of Punjab, [(2008) 4 SCC 582], we find that no purpose would be served by keeping the criminal proceedings pending, except burdening the Criminal Courts which are already overburdened. We are of the view that in the backdrop of the aforestated fact-situation, the continuation of proceedings in the instant case will amount to abuse of the process of Court and therefore, it is in the fitness of things to quash the subject criminal proceeding in order to secure the ends of justice. We are in agreement with the submission of the learned Counsel appearing for the respective parties that continuation of criminal proceedings in the instant case will be an exercise in futility and justice in the

case demands that the dispute between the parties is put to an end and peace is restored.

12. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab [2014 AIR SCW 2065], we are of the considered view that there is no impediment in quashing the criminal proceedings in question.

13. Writ Petitions are allowed in terms of amended prayer clause 'A'. Hence, FIR bearing Crime No. 36 of 2021 registered at Koregaon Park Police Station on 19.03.2021, for the offences punishable under Sections 498-A, 504, 506 read with 34 of IPC and Sections 3 and 4 of Dowry Prohibition Act and subsequent proceedings arising out of the said FIR i.e., proceedings bearing No. RCC No. 3509/2020, are hereby quashed and set aside.

(S. M. MODAK, J.)

(PRASANNA B. VARALE, J.)