

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

CRIMINAL WRIT PETITION NO.3042 OF 2022

1. Ankush Harshuprasad Dubey
 2. Malti Harshuprasad Dubey
 3. Harshuprasad Ramshiromani Dubey
 4. Ankita Harshuprasad Dubey ...Petitioners
- Versus
1. The State of Maharashtra
 2. Upasana Ankush Dubey ...Respondents

Ms. Deepa Panicker, i/b Khalid Naseem Khan, for the Petitioners.

Ms. S. D. Shinde, A.P.P for the Respondent No.1– State.

Ms. Nibha Jha, for the Respondent No.2.

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

DATE : 17th NOVEMBER 2022

P.C. :

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. Learned A.P.P waives notice on behalf of the respondent No.1–State. Ms. Jha, waives notice on behalf of the respondent No.2.

3. By this petition, the petitioners seeks quashing of the FIR bearing C.R. No. 131 of 2019 registered with the Vikhroli Police Station, Mumbai, at the behest of the respondent No.2, for the alleged offences punishable under Sections 498A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.2, the petitioner Nos.2 and 3 the in-laws and the petitioner No.4 is the sister-in-law of the respondent No.2 respectively. It appears that the petitioner No.1 and the respondent No.2 got married on 7th December 2015. Post marriage, the respondent No.2 started residing at her matrimonial home. Admittedly, the couple has no issues from the said wedlock. According to the respondent No.2, as she was ill-treated and harassed by the petitioners, she was constrained to file the aforesaid FIR, as against the petitioners, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and the case is presently

pending before the learned Additional Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai, being Case No.1647/PW/2019. It appears that apart from the said proceeding, the respondent No.2 has filed a complaint in the Court of the learned Metropolitan Magistrate at Vikhroli, Mumbai, under the Domestic Violence Act. The petitioner No.1 had also filed a petition under Section 13(1)(ia) of the Hindu Marriage Act, in the Court of the learned Civil Judge Senior Division, Thane being Marriage Petition No.129 of 2018. The marriage between the parties have already been dissolved by the learned 5th Joint Civil Judge, Senior Division Thane, vide Judgment and Order dated 26th July 2022, under Section 13B of the Hindu Marriage Act.

5. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute and entered into the consent terms. The said consent terms are at Exhibit – 'C', page 109 of the petition. The said consent terms are duly signed by the parties i.e. the petitioner No.1 and the respondent No.2. In the said consent terms, the petitioner No.1 has agreed to pay a sum of Rs.15,07,000/- to the

respondent No.2 by way of full and final settlement.

6. Learned Counsel for the petitioners states that the petitioner No.1 has paid the entire amount to the respondent No.2. Learned Counsel for the respondent No.2 does not dispute the said statement.

7. Respondent No.2 has filed her affidavit, duly affirmed before the Assistant Registrar, High Court, Appellate Side, which is at Exhibit – ‘B’ on page 105 of the petition. In the said affidavit, the respondent No.2 has stated that she has no objection to the quashing of the proceedings, in view of the amicable settlement between the parties. Respondent No. 2 is present in Court. She states that she has already withdrawn the D.V. complaint and has received the entire amount i.e. Rs.15,07,000/-, as per the consent terms entered into between them and as such has no grievance to the quashing of the proceedings. Learned counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2.

The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

8. Considering the nature of dispute, the amicable settlement between the parties, the consent terms entered into between them, the affidavit filed by the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR bearing C.R. No. 131 of 2019 registered with the Vikhroli Police Station, Mumbai, is quashed and set aside and consequently the proceeding pending before the learned Additional Metropolitan Magistrate, 31st Court, Vikhroli, Mumbai, being Case No.1647/PW/2019, is also quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

10. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.