

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.933 OF 2022**

- | | | | |
|----|------------------------------|---|-------------|
| 1. | Harsh Balkishan Kalosiya |] | |
| 2. | Balkishan Kalosiya |] | |
| 3. | Sumandevi Balkishan Kalosiya |] | |
| 4. | Shubham Balkishan Kalosiya |] | |
| 5. | Poonam Balkishan Kalosiya |] | |
| | @ Surbhi Gurav Kalyane |] | Applicants |
| | Vs. | | |
| 1. | The State of Maharashtra |] | |
| 2. | Khushbu Harsh Kalosiya |] | Respondents |

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Ms. Ashwini M. Bhagat, for Applicants.

Mr. J.P. Yagnik, A.P.P, for Respondent No.1 -State.

Ms. Neetha Varghese, for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 6th DECEMBER, 2022.

P.C.

1. Heard Ms. Bhagat, learned Counsel for the applicants, Mr. Yagnik, learned A.P.P, for Respondent No.1-State and Ms. Varghese, learned Counsel for Respondent No.2.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the Application is taken up for final disposal. Learned A.P.P waives notice on behalf of the Respondent No.1 - State and Ms. Varghese, learned Counsel waives notice on behalf of the respondent No.2.

3. By this application, preferred under section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing of the First Information Report (for short "F.I.R") registered vide C.R. No.152 of 2019 with the Kamothe Police Station, Navi Mumbai for the alleged offences punishable under sections 498A, 323, 504 r/w 34 of the Indian Penal Code (for short "I.P.C") and consequently, the proceeding pending before the Court of learned J.M.F.C, Panvel. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Learned Counsel appearing for the applicants submits that the parties have amicably settled their dispute and as such, the Respondent No.2 has no objection if the proceeding i.e the

aforesaid C.R and consequently, the proceeding arising therefrom, are quashed and set aside, in view of the amicable settlement between the parties.

5. Perused the papers.

6. Applicant No.1 is the husband of the Respondent No.2, Applicants No.2 and 3 are father-in-law and mother-in-law and Applicants No.4 and 5 are brother-in-law and sister-in-law respectively of the Respondent No.2. The Applicant No.1 and the Respondent No.2 got married on 16th January, 2017 at Ajmer, according to Hindu rites and rituals. Admittedly, from the said marriage, the parties have no issues. According to the Respondent No.2, post marriage as she was ill-treated and harassed, she lodged the aforesaid F.I.R as against the applicants alleging the aforesaid offences. After investigation, the charge-sheet was filed in the said case and the case is currently pending before the Court of learned J.M.F.C, Panvel being R.C.C. Case No.216 of 2020.

7. During pendency of the aforesaid proceeding, the parties entered into an amicable settlement. It appears that apart from the aforesaid C.R, the Respondent No.2 also initiated D.V. proceedings as against the applicants in the Court of learned J.M.F.C, Panvel i.e Criminal M.A. No.731 of 2019. In view of the settlement, the parties i.e Applicant No.1 and Respondent No.2 filed consent terms in the Court of the learned J.M.F.C, Panvel i.e in Criminal M.A. No.731 of 2019.

8. Learned Counsel for the parties have tendered the consent terms entered into between the parties and filed in the aforesaid proceeding. Photocopy of the consent terms is taken on record. As per the consent terms, the Applicant No.1 has to pay a sum of Rs.10,00,000/- by way of full and final settlement to the Respondent No.2. Said payment is to be made as per paragraph 2 of the said consent terms i.e:-

- (a) Rs. 3,00,000/- at the time of filing of the consent terms and withdrawal of the D.V. proceedings;

(b) Rs.3,00,000/- at the time of quashing of the proceeding i.e the present proceeding and

(c) Rs.4,00,000/- when the decree of divorce is finally passed;

(d) As far as other terms and conditions stipulated in the consent terms are concerned, the parties have undertaken to abide by and comply with the said terms and conditions.

9. Learned Counsel appearing for the Respondent No.2 has tendered an Affidavit of the Respondent No.2 dated 8th September, 2022 duly notarized before the Notary. A duly attested photo copy of the Aadhar Card of the Respondent No.2 is annexed with the Affidavit. The said Affidavit is taken on record. In the said Affidavit, the Respondent No.2 has given no objection for quashing of the C.R registered at her behest, in view of the amicable settlement between the parties. The Respondent No.2 is present in the Court. She has no objection for quashing of the proceedings, provided, the Applicants abide by the terms and

conditions stipulated in the consent terms. Learned Counsel appearing for the Respondent No.2 has identified the Respondent No.2 and the learned A.P.P has verified the original Aadhar Card of the Respondent No.2.

10. Considering the nature of the dispute, relations between the parties, the consent terms entered into between them, Affidavit of the Respondent No.2 and having regard to the judicial pronouncements of the Apex Court in **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the Application.

11. The application is accordingly allowed and the C.R. No.152 of 2019 registered with the Kamothe Police Station, Navi Mumbai for the alleged offences punishable under sections 498A, 323, 504 r/w 34 of the Indian Penal Code is quashed and set aside. Consequently, R.C.C Case No.216 of 2020 pending before the learned J.M.F.C, Panvel is also quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

12. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]