

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1026 OF 2021

Deepak Kantilal Shah ... Applicant
Vs.
State of Maharashtra And Anr. ... Respondents

Mr. Samarth Karmar i/b Karmarkar and Associates, advocates for Applicants.

Mrs. Aruna S. Pai, Public Prosecutor for Respondent No.1-State.

Mrs. Reshma R. Apte for Respondent No.2.

**CORAM : PRASANNA B. VARALE, J. &
S.M. MODAK, J.**

DATE : 9 MARCH 2022

PC. :

. This is an Application for quashing of the prosecution pending in the Court of 26th Metropolitan Magistrate Borivli, bearing CC. No.332/PW/2016 for the offence punishable under Sections 498A, 323, 504, 506 of Indian Penal Code. It was at the instance of Respondent No.2 Smt. Sadhna Shah. She was harassed on account of dowry by the Petitioner. Petitioner is the husband of Respondent No.2 and he is accused No.1, whereas his

father Grish was accused No.2. He expired on 26th July, 2017. Photocopy of the death certificate is filed on record.

2. After the marriage on 19/01/2003, both the spouses cohabited at Kolhapur. However the relations were not cordial. There was a police complaint filed in the year 2005. But it was settled. Respondent No.2 joined the company of Petitioner No.1 at Kolhapur. However there was no change in the situation. It compelled Respondent No.2 to file Police complaint with Borivli Police Station on 12.10.2015 and offence was registered.

3. The Police have filed charge sheet. During pendency of that proceeding, both the parties have amicably settled their dispute. Both the parties have entered into settlement thereby agreeing to separate marital tie and Petitioner has agreed to pay Rs.20,00,000/- in lump sum and in turn Respondent No.2 has agreed to withdraw all cases and will cooperate in quashing the original case.

4. We have heard Mr.Samarth Karmar Advocate for Applicant, Mrs. Aruna Pai, Public Prosecutor for Respondent No.1

State, Mrs. Reshma Apte for Petitioner No.2. Copy of consent terms is filed on record. By way of an affidavit. Respondent No.2 has affirmed the settlement and the terms. Though allegation under Section 377 of IPC is serious, considering the relationship between Petitioner and Respondent No.2 as husband and wife, it will be in the interest of both the parties to quash the proceedings. It is in the interest of both the parties so that they can start a new life. Hence this order.

ORDER

- a) The Criminal Application No.1026 of 2021 is allowed.
- b) The F.I.R. bearing No.502 of 2015 dated 12.10.2015 registered at Borivli Police Station, Mumbai under Sections 498-A, 323, 504, 506 of IPC and CC No.332/PW/2016 pending with 26th Court of Metropolitan Magistrate Borivli is quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)

