

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.854 OF 2022**

1]	Mahesh Kisan Gorad	]	
2]	Shahabai Kisan Gorad	]	
3]	Kavita Sanjay Yamgar	]	
4]	Keshav Kisan Gorad	]	Applicants
	Vs.		
1]	Pooja Mahesh Gorad	]	
2]	State of Maharashtra	]	Respondents

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Mr. Ramanand Sikhwal i/b Mr. Mahendra Shingade, for Applicants.

Mr. M.G. Sapkal, for Respondent No.1.

Ms. S.D. Shinde, A.P. P, for Respondent No.2-State.

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

DATE : 21st SEPTEMBER, 2022.

P.C.

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and the application is taken up for final disposal.

Mr. Sapkal, waives service on behalf of respondent No.1 - and Ms. Shinde, learned A.P.P waives service on behalf of respondent No.2-State.

3. Perused the papers.

4. By this application preferred under section 482 of the Code of Criminal Procedure, 1973, the applicants seek quashing of the F.I.R bearing C.R. No.129 of 2021 registered with Charkop Police Station, Mumbai for the alleged offences punishable under sections 498-A, 323, 504, 506, 509 of the Indian Penal Code (for short "I.P.C").

5. It appears that the Applicant No.1 is the husband of the respondent No.1, Applicant No.2 is the mother-in-law, Applicant No.3 is sister-in-law and Applicant No.4 is brother-in-law of the respondent No.1. Applicant No.1 and respondent No.1 got married on 28th March, 2019. It appears that post marriage, there were certain matrimonial issues/disputes between the

parties, pursuant to which, the respondent No.1 filed aforesaid complaint/F.I.R No.129 of 2021 as against the applicants. After investigation, charge-sheet has been filed and that the case is pending before 24th Additional Chief Metropolitan Magistrate, Borivali bearing Criminal Case No.227/PW/2022. It appears that in the interregnum, the parties i.e applicant No.1 and respondent No.1 have filed a Divorce petition under section 13 (1) (b) of the Hindu Marriage Act, 1955 bearing M.P. No.430 of 2022 seeking divorce by mutual consent. We are informed that the said petition is pending before the learned Civil Judge (Senior Division), Panvel. Admittedly there are no issues from the said wedlock.

6. Along with the application, agreement for filing mutual consent divorce petition has been annexed at 'Exhibit B' at page No.17. A perusal of paragraph 5 of the said agreement reveals that the respondent No.1 is to receive a sum of Rs.5,00,000/- towards permanent alimony and maintenance. Paragraph 5 spells out from (a) to (e) as to how the said amount of Rs.5,00,000/- would be paid to the respondent No.1;

- (a) Rs. 1,00,000/- at the time of execution of the agreement;
- (b) Rs.1,00,000/- at the time of signing of the mutual consent Divorce petition and withdrawal of Divorce Petition i.e Case No.17/DV/2021;
- (c) Rs.1,00,000/- as per clause 9 of the agreement at the time of quashing of the F.I.R;
- (d) Rs.1,00,000/- at the time of filing of the affidavit of evidence in the Divorce Petition by the respondent No.1 and
- (e) Rs.1,00,000/- at the time of pronouncement of the judgment in the Divorce Petition.

7. The respondent No.1 is present in person. She has filed her affidavit dated 29th July, 2022 giving her no objection for quashing of the proceedings. She has further stated in the said affidavit that till date she has received Rs.3,00,000/- from the applicants towards the part payment, out of the total amount of Rs.5,00,000/-. When questioned, she reiterates what is stated by

her in the affidavit. Learned Counsel for the respondent No.1 has tendered a self attested xerox copy of the Aadhar Card of the respondent No.1. The same is taken on record. Learned Counsel appearing for the respondent No.1 identifies the respondent No.1. Learned A.P.P has also verified the original Aadhar Card with xerox copy. The applicants are also present in person. The applicant No.1 assures to abide by the agreement i.e payment schedule as stipulated in the agreement.

8. Considering the nature of the dispute and relations between the parties 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 application.

9. The application is accordingly allowed and the FIR bearing C.R. No.129 of 2021 registered with the Charkop Police Station, Mumbai, for the alleged offences punishable under sections 498A, 323, 504, 506, 509 of the I.P.C is quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Consequently, the proceeding pending before the 24th Additional Chief Metropolitan Magistrate, Borivali, Mumbai bearing Criminal Case No.227/PW/2022 is also quashed and set aside, subject to the condition that the applicant No.1 complies with the terms set out in the agreement.

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

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

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