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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1058 OF 2021

Girish Chander Purswani & Ors.Applicants

Versus

The State of Maharashtra & Anr.Respondents

Ms Nuzhat Shaikh Chimate for the Applicants.

Mr. Shreyans Mamania i/b. Chirag Shah for Respondent No.2.

Ms. M.H. Mhatre, APP for Respondent-State.

**CORAM : PRASANNA B. VARALE &
SURENDRA P. TAVADE, JJ.**

DATE : 14th FEBRUARY, 2022.

P.C. :

1. Heard Mr.Shaikh, learned counsel for the applicants, Mr.Mamania, learned counsel for Respondent No.2 and Ms.Mhatre, learned APP for the State.
2. The applicants have approached this Court for seeking quashment of the FIR in C.R.No.466/2020 registered on 28.11.2020 at Vile Parle Police Station, Mumbai for the offence under Sections 498-A, 406, 509, 323, 504, 506 r/w.34 of IPC a/w. Section 43 of the Information Technology Act, 2000 against the applicants.
3. Learned counsel for the applicants submits that post filing of the application, the Investigating Agency completed the exercise by filing

charge-sheet before the competent Court. Thus, he orally prayed for amendment to the application by incorporating the additional grounds in the application and consequently prayers in the application namely the prayer for quashment of the proceeding arising out of the FIR. The oral prayer is allowed. Amendment to be carried out by tomorrow.

4. The perusal of documents placed on record show that Applicant No.1 as well as Respondent No.2 were employed in one private firm. Their friendship in the employment resulted into close association and with consent of the parents they decided to marry each other. The marriage between Applicant No.1 and Respondent No.2 was solemnized on 18.1.2020. It seems that within a short span of matrimonial life, there were differences and discord between the couple on various counts. Respondent No.2 had approached Vile Parle Police Station and lodged report on 28.11.2020.

5. Perusal of the documents reveal that the applicants had approached the learned Sessions Judge for protecting their liberty by filing an application seeking anticipatory bail and application of the applicants was allowed vide order dated 15.2.2021. It also reveals from perusal of the documents that the matrimonial discord between the parties led Respondent No.2 to initiate the parallel proceedings before the Family Court. The perusal of document further shows that during pendency of the proceedings, a better sense prevailed over the parties and the parties have decided to resolve their disputes amicably. The terms of settlement of the parties are placed on record at Exhibit C. The terms of settlement which were filed before the learned Sessions Court, Dindoshi are placed on record

at Exhibit C under the caption 'Consent Terms'. Perusal of the document show that Applicant No.1 in Anticipatory Bail Application No.1131 of 2020 agreed to pay lumpsum amount of Rs.12,50,000/- (Rupees Twelve Lakhs Fifty Thousand Only) in two installments to Respondent No.2. The perusal of consent terms further show that first installment to the tune of Rs.6,25,000/- is paid by Applicant No.1 by depositing demand draft in the Family Court and Applicant No.1 is agreed to pay the balance amount of Rs.6,25,000/- within one week from the date of final decree of divorce/dissolution of marriage by way of a demand draft.

6. Then there are other terms and it may not be necessary to refer these terms in details. The parties have agreed not to cause any interference in each other's lives or cause any nuisance or defame/malign each other's reputation in person or in public after filing of the said consent terms, application and after the receipt of the decree of divorce. Respondent No.2 had shown her willingness to assist the applicants so as to give full stop to all the proceedings between the parties including the present proceeding.

7. Affidavit in reply in support of the consent terms is also filed by Respondent No.2 in this Court on 11.12.2021. It is stated in the affidavit in reply that Respondent No.2 is having no objection if the FIR in C.R.No.466 of 2020 registered at Vile Parle Police Station, Mumbai u/s.498-A, 406, 509, 323, 504, 506 r/w.34 of IPC against the applicants is quashed. It is also stated that the present affidavit in reply is filed by Respondent No.2 with her own wish and will without there being any kind of force, coercion and/or misrepresentation.

8. On a specific query put to Respondent No.2 she reiterates that on her own will and wish the affidavit in reply is filed. As such she is not raising any objection in quashing the FIR and proceedings against the applicants.

9. Considering the above referred facts, we have the opinion that continuation of the proceedings arising out of Crime No.466 of 2020 would be nothing but an act of futility and we are of the opinion that learned counsel for the applicants has made out a case for allowing the application.

10. In these circumstances and especially in view of the law laid down by the Apex Court in the case of ***B.S.Joshi Versus State of Haryana AIR 2003 SC 1386*** we are of the view that no purpose would be served by keeping the criminal proceedings except burdening the Criminal Courts which are pending already overburdened. In that view of the matter and in the interests of Justice, the subject FIR is required to be quashed.

11. In view of the fact, learned counsel for the applicants also prayed for grant of prayer clause (c). Prayer clause (c) reads thus:-

“That the hard disk which belongs to the Applicant No.1 be returned to him after passing of the orders of quashing.”

12. Respondent No.2 is having no objection for return of the hard disk to Applicant No.1. Accordingly, prayer clause (c) is also granted.

13. In view of the above, the application is allowed in terms of prayer clauses (a) & (c) and is disposed of as such.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)