

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4577 OF 2021**

Anil Rajdhar Prajapati and Ors. ... Petitioners
Vs.
The State of Maharashtra And Anr. ... Respondents

Mr. Raviraj S. Gamare – Advocate for the Petitioners.
Ms. Vidya Chaudhari – Advocate for Respondent No.2.
Mr. S. D. Shinde – APP for Respondent No.1.

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

DATE : 16th MARCH, 2022

P.C. :

1. Present Petitioners are the accused persons in an offence bearing No.103 of 2017 registered at Khar Police Station, Mumbai. It was registered on 06.03.2017 on the complaint of Respondent No.2 Babita Prajapati. It is for the offence punishable under Sections 377, 494, 498, 324, 323, 354-A(2), 504, 506 read with 34 of Indian Penal Code. Now the charge sheet is filed and it is pending with the Court of 9th Metropolitan Magistrate Bandra Mumbai bearing No.1161/PW/2017.

2. Respondent No.2 is the wife of Petitioner No.1 whereas Petitioner No.2 and Petitioner No.3 are in laws of Respondent No.2.

Petitioner No.4 is brother in law of Respondent No.2 and Petitioner No.5 is distant relative of Petitioner No.1. The first informant was compelled to have sexual intercourse in a unnatural way and there was concealment of 1st marriage of Petitioner No.1 with another lady. She was also ill-treated for putting pressure to bring money from her parents.

3. The marriage took place on 03.03.2016 this date is mentioned in FIR whereas in her affidavit date of marriage is mentioned as 05.01.2016. She cohabited with Petitioner No.1 till 13.12.2016 with intermittent stay at her parents house. During pendency of this case, both the spouses have realised that it is difficult to reconcile their differences and mutually they have agreed to put an end to the marital tie Respondent No.2 has filed petition for divorce before Family Court it is pending. Its copy is filed on record. Now both these spouses have decided to dissolve the marriage by mutual consent. Petitioner No.1 has agreed to pay Rs.5 Lakhs to Respondent No.2 towards lump sum alimony. She has filed an affidavit to that effect. Copy of consent term filed before Family Court at Bandra is filed on record. Terms are mentioned therein.

4. We have heard Mr. Raviraj Gamare for Petitioner No.1,

Ms. Vidya Chaudhari for Respondent No.2 and Ms. S. D. Shinde APP for Respondent No.1.

5. This petition was filed for quashing on the basis of settlement. Though allegation under section 377 is serious but we are inclined to quash the proceeding considering the relationship and future of the parties. It will be in interest of both the parties to quash the proceeding. Hence we are inclined to quash the proceeding. Hence the Order:-

ORDER

- a) Writ Petition No.4577 of 2021 is allowed.
- b) The FIR bearing No.103 of 2017 dated 06.03.2017 registered at Khar Police Station, Mumbai for the offence punishable under Sections 377, 494, 498, 324, 323, 354-A(2), 504, 506 read with 34 of Indian Penal Code and proceeding pending in the Court of 9th Metropolitan Magistrate Bandra Mumbai bearing C.C. No.1161/PW/2017 Mumbai is quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)