

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3554 OF 2022

Dr. Kinjal Dilipkumar Modi ...Petitioner

vs.

1. The State of Maharashtra

2. Dr. Nishi Kinjal Modi ...Respondents

Mr. Datta Mane a/w Mr. Akash Yadav -- Advocate for the
Petitioner

Ms. M. H. Mhatre – APP for the Respondent-State

Mr. Vaibhav Shah i/by Mr. Yusuf Mithi – Advocate for the
Respondent No. 2

**CORAM : REVATI MOHITE DERE &
 S. M. MODAK, JJ.**

DATE : 03rd OCTOBER, 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 petition is taken up for final
disposal. Learned A.P.P waives notice on behalf of the
Respondent No.1-State. Mr. Vaibhav Shah, learned

Advocate waives notice on behalf of the Respondent No. 2.

3 By this petition, the Petitioner seeks quashing of the FIR bearing C.R. No. 175 of 2018 registered with the Borivali Police Station, Mumbai, for the alleged offences punishable under Sections 323, 406, 420, 464, 467, 468, 471, 498A, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the Petitioner and the Respondent No. 2 have amicably settled their dispute.

4 Perused the papers. The Petitioner is the husband of the Respondent no. 2.

5 It appears that the Petitioner and the Respondent No. 2 got married on 15/08/2010 as per the Hindu Vedic rites in Mumbai at hotel "The Retreat", Malad (West), Mumbai. From the said wedlock, the couple have two daughters, aged 10 years and 08 years, respectively.

6 It appears that post marriage, there was marital

discord between the parties, pursuant to which the Respondent No. 2 filed a complaint/FIR which was registered vide C.R.No. 175/2018, as against the Petitioner, with the Borivali Police Station, alleging the aforesaid offences. The said F.I.R. was initially lodged against the Petitioner as well as her mother-in-law- Usha Modi. However, as Usha Modi expired, the present case is pending only against the Petitioner. After investigation, charge-sheet was filed as against the Petitioner and the case is presently pending before the learned Metropolitan Magistrate, Borivali, Mumbai, being RCC No. 2602393/PW/2022.

7 Since there were several proceedings pending between the parties, the matter was referred to the Mediator (retired Justice S. J. Kathawalla) by this Court vide Order dated 06/07/2022, passed in Anticipatory Bail Application No. 1313 of 2022. It appears that with the guidance of the Mediator, the parties amicably settled their dispute, by filing consent terms before the Mediator on

13/09/2022. One of the condition in the said consent terms is, that the Petitioner would file a petition for quashing of the proceedings and that the Respondent No. 2 would give her consent for the said quashing. The terms of the settlement/consent terms between the parties is at Exh. 'C' page no. 202 of the petition. In the said terms of settlement, the terms and conditions have been stipulated with respect to the custody of the children, access, alimony and maintenance. As per the consent terms, the parties have filed a petition seeking divorce by mutual consent, before the Family Court, Bandra.

8 Learned counsel for the Respondent No. 2 has tendered an affidavit of the Respondent No. 2, dated 03/09/2022, duly affirmed by the Assistant Registrar, High Court, Appellate Side, Bombay. The said affidavit is taken on record. In the said affidavit, the Respondent No. 2 has stated that she has amicably settled her dispute with the Petitioner, before the Mediator, and that the Petitioner has to pay the settlement amount of Rs. 2,05,00,000/- to the

Respondent No. 2, as per the terms of the settlement stipulated in the said consent terms. She has further stated that in view of the amicable settlement of the dispute, she does not wish to proceed with the aforesaid C.R./proceeding and as such, she has no objection for quashing of the said F.I.R.. The Respondent No. 2 is present in-person. She reiterates what is stated by her in her affidavit. Both the Petitioner and the Respondent No. 2 are present in-person and agree that they will abide all the terms and conditions as stated in the terms of the settlement entered into between them. The Respondent No. 2 is identified by her counsel. The learned counsel for the Respondent No. 2 has tendered a self attested xerox copy of her Aadhar card. The same is taken on record. Learned APP has verified the original Aadhar card of the Respondent no. 2.

9 Considering the nature of settlement, relations between the parties, the amicable settlement between the parties, the affidavit of the Respondent No. 2 and having regard to the judicial pronouncements of the Apex Court in

the case of ***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 petition.

10 The petition is accordingly allowed and the FIR bearing C.R. No. 175 of 2018 registered with the Borivali Police Station, Mumbai is quashed and set aside and consequently, the proceeding arising from the C.R., which is pending before the learned Metropolitan Magistrate, Borivali, Mumbai, being RCC No. 2602393/PW/2022, is also quashed and set-aside.

11 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

[S. M. MODAK, J.]

[REVATI MOHITE DERE, J.]

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466