

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 4774 OF 2021**

Mr. Bhagyaraj Periswamy Devendra and ors.Petitioners

Versus

Mrs. Vennila Bhagyaraj Devendra and anr.Respondents

Mr. Shrinivas C. Singh, advocate for the petitioners.

Ms. Shweta Singh, advocate for respondent No.1.

Ms. M. H. Mhatre, APP for the State.

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

DATE : 18th FEBRUARY, 2022.

P.C. :

1. Heard learned counsel and learned APP appearing for the respective parties.

2. The petitioners are before this Court seeking quashment of FIR No.423 of 2015 for the offences punishable under Sections 498A, 406 read with Section 34 of the Indian Penal Code and FIR No.421 of 2018 for the offences punishable under Sections 509, 323, 506 of the Indian Penal Code, 1860 registered with Juhu Police Station against the petitioners as well as Case No.2880/PW/2018 arising out of FIR No.421 of 2018 pending before Learned Metropolitan Magistrate, 10th Court at Andheri, Mumbai.

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3. Perusal of the copies of the said FIRs, which are placed on record, show that there was a discord between the petitioner No.1 - husband and respondent No.1 - wife and at one point of time, the petitioner - husband was desirous of parting way with respondent No.1- wife and had filed proceedings for divorce. Post filing of the FIRs in the Police Station as well as during the pendency of the proceedings before the competent court and during pendency of the petition filed in this Court, petitioner No.1 and respondent No.1 settled their dispute amicably and post lodgement of the FIRs, for a period of two years, the couple was residing under same roof along with their children and presently, also the couple is residing under one roof.

4. Respondent No.1 -wife is present before this Court. On query put to her, she submitted that there is positive change in the behaviour of petitioner No.1 and she is having no grievance against him or his family members anymore. She reiterated that she and her husband – petitioner No.1 are residing under the same roof along with their children and leading a harmonious matrimonial life. Respondent No.1 further submitted that she has no objection if the aforesaid FIRs and proceedings arising therefrom are quashed and set-aside.

5. Considering the above facts, we are of the opinion that the continuity of the FIRs and the proceedings would be nothing but an act of futility. The offences alleged against the petitioners are not involving any

social element and the dispute is an outcome of matrimonial discord. 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 quashing of the FIRs as well as criminal proceedings would be in the interest of respondent No.1. Besides, no purpose would be served by keeping the FIRs. and criminal proceedings pending except burdening the Criminal Courts which are already overburdened. In that view of the matter and, in the interests of justice, the FIRs and the proceedings arising therefrom are required to be quashed and set-aside. The petition is, accordingly, made absolute in terms of prayer clause (a) which reads thus :

“(a) This Hon'ble Court may be pleased to quash and set-a -side a F.I.R. Bearing No. 423 /2015 for offence punishable U/s. 498-A, 406 r/w 34 of the Indian Penal Code lodged at Juhu Police Station on 09/10/2015 by the respondent no 1 and also case no. 2880/pw/2018 arising out of FIR no.421/2018 for offence punishable u/s 509,323 and 506 of the IPC pending before Ld. MM 10th court at Andheri, Mumbai lodged by the Respondent No. 1 on such terms and conditions as this Hon'ble court deem fit and proper.”

The writ petition is, accordingly, disposed.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)