

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

CRIMINAL WRIT PETITION NO.4801 OF 2019

Mr. Vinay Prabhudayal Jangid & Ors. Petitioners
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Ranjit Bhosale i/b Mr. Payal Upadhyay, ANP Chambers for the Petitioners.

Mr. Sandesh Kamble i/b Mr. Prasad S. Shivgan for respondent No.2.

Mr. J. P. Yagnik, APP for respondent No.1 -State.

**CORAM: PRASANNA B. VARALE &
G. A. SANAP, JJ.**

DATED : 25 MARCH 2022.

P. C.

The petitioners have moved this petition and prayed for quashing the proceedings of R. C. C./176/2001 pending before the Court of Learned Judicial Magistrate, First Class, Thane.

2. Heard learned Advocate for the Petitioners, learned AGP for the Respondent-State and learned advocate for Respondent No.2.

3. We have heard learned counsel for respondent No.2 in support of settlement of dispute of respondent No.2 with the petitioners. Respondent No.2 has filed affidavit. Respondent No.2 has confirmed and reiterated the facts stated in the affidavit.

4. On the basis of report lodged by respondent No.2 FIR bearing No. I 36/2001 came to be registered against the petitioners for offence punishable under section 498A, 406 r/w. 34 of the Indian Penal Code. It is the case of respondent No.2 in the FIR that she got married to petitioner No.1. After her marriage she was subjected to mental and physical cruelty by the petitioners. Gold and silver ornaments were retained by the petitioners, when the respondent No.2 was driven out of the matrimonial home. On the basis of these allegations crime as above came to be registered. On completion of the investigation, the Investigating Officer filed charge-sheet in the Court of Judicial Magistrate First Class, Thane. The case is pending before the Judicial Magistrate First Class, Thane.

5. The petitioners have filed this petition in 2019. It is stated that the dispute between petitioners and respondent No.2 has been amicably settled. The marriage between petitioner No.1 and Respondent No.2 has been dissolved by a decree of divorce granted by the Family Court at Mumbai on 26/3/2008. It has been stated in the affidavit that after divorce petitioner No.1 and respondent No.2 got settled in their respective lives. Petitioner No.1 has performed marriage. Similarly, respondent No.2 has also performed marriage. They are living their family lives with their respective spouses.

6. It is submitted that considering the fact that dispute between the parties has been amicably settled and after divorce they

have settled in their respective married lives, it is submitted by the learned counsel for the petitioners and for respondent No.2 that this is the case wherein the discretion under Section 482 of IPC to quash the proceedings can be exercised.

7. In our view, it is a fit case to exercise discretion. The case is pending since 2001 qua for one reason or the other it remained pending for about 20 years. The parties took divorce in 2008. In our view the continuation of prosecution cannot be in the interest of Respondent No.2. The continuation of the prosecution may present a bitter past before Respondent No.2. It seems that she is not interested to dig into the bitter past. On going through the record the settlement is bonafide. The aggrieved party- Respondent No.2 has not only consented but stated the reasons in support of the settlement.

8. In the above background, the continuation of the prosecution would be exercise in futility and if same is continued it would incur loss of valuable judicial time.

9. In view of this position, we are inclined to grant the petition.

The Petition is allowed in terms of prayer clause (a).

"a) That this Hon'ble Court be pleased to quash the proceedings u/s.482 of the Code of Criminal Procedure by calling the records and proceedings of the R. C. C. No.176/2001 pending before the Hon'ble JMFC Court 1, Thane."

(G. A. SANAP, J.)

(PRASANNA B. VARALE, J.)