

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.5089 OF 2021

Hemraj Pralhad Nirmal ... Petitioner
Vs.
The State of Maharashtra And Anr. ... Respondents

Mr. Omneel Ashok Jadhav, Advocate for the Petitioner.
Mr. R. A. Mohite, Advocate for Respondent No.2.
Ms. S. D. Shinde, APP for Respondent-State.

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

DATE : 2nd May, 2022

P.C. (Per S. M. Modak, J.) :-

1. Heard Mr. Omneel Ashok Jadhav, learned advocate for the Petitioner, Mr. R. A. Mohite, the learned advocate for Respondent No.2 and Ms. S. D. Shinde, APP for Respondent-State.

2. This is a Petition for quashing by consent preferred by the Petitioner husband and Respondent No.2 wife. There is an offence registered at C. R. No.1099 of 2017 for the offence punishable under Section 451, 323, 504, 506 on 2nd May, 2017 on the complaint of Respondent No.2. The present Petitioner is a sole accused. Their marriage

was inter caste marriage. It was solemnised in the year 2007. In the year 2011, she has lodged a Police complaint with Panvel Police Station for offence under Section 498-A since 2012. She is residing along with her son at Ratnagiri. The incident took place on 13th April, 2017 at about 4.30 hrs. The Petitioner entered in the house of first informant and abused her and caused hurt to her that is why, the offence came to be registered. Charge sheet is filed in that offence and it is registered as Sessions Case No.24 of 2019.

3. Apart from this, the Petitioner also abused the Respondent No.2 on account of cast and other abuses. It happened during the period of 1st September, 2016 up to 30th April, 2017, FIR came to be lodged on 10th June, 2017 bearing No.281 of 2017 with Ratnagiri city Police Station. Charge sheet is also filed, which is numbered as special case No.3 of 2017. The Additional Sessions Judge, Ratnagiri as per the Order dated 18th June, 2019 has merged case No.24 of 2019 in Special Case No.3 of 2017. Its copy is filed on record. Apart from that, there were also proceedings for maintainance before the Magistrate Court, Panvel. There was an Order to pay Rs.5,000/- towards monthly maintainance till 18th February, 2020. The Petitioner has paid Rs.1,20,000/- to Respondent No.2. The pending arrears are Rs.3,00,000/-. It is paid by demand draft (DD). Additionally a

DD for Rs.3,00,000/- is issued in favour of Respondent No.2. The agreed amount of permanent alimony as per settlement is Rs.6,00,000/-. The custody of son Arnav will remain with Respondent No.2.

4. They have decided to file a Petition for divorce by mutual consent. Respondent No.2 has agreed to co-operate for quashing. She has also filed an affidavit. As the parties have settled the dispute, no purpose will be served by keeping the prosecutions pending. As the Respondent No.2 belong to reserved category, there was invocation of Prevention Of Atrocities on Schedule Caste and Schedule Tribe Act, but now they have settled the matter, we are inclined to quash the prosecution. Hence the Order:-

ORDER

- a) Criminal Writ Petition No.5089 of 2021 is allowed.
- b) Sessions Case No.24 of 2019 for the offence punishable under Sections 451, 323, 504, 506 arising out of Crime No.199 of 2017 is quashed and set aside.
- c) Sessions Case No.3 of 2017 for the offence punishable under Section 3(1), 3(r), 3(s), 3(u) of Schedule Caste and Schedule Tribe Act, and under Sections 504 & 506 of IPC arising out of 281 of 2017 is quashed and set aside.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)