

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

CRIMINAL WRIT PETITION NO.5246 OF 2021

**PRIYA
RAJESH
SOPARKAR**

Digitally signed by
PRIYA RAJESH
SOPARKAR
Date: 2022.02.14
15:30:02 +0530

- | | | | |
|----|--|---|------------------|
| 1. | Shri Parag Prabhakar Ahirrao |] | |
| | Age 42 years, Occupation - Service, |] | |
| | Permanent resident of 801, Sai Brindavan, |] | |
| | Khadakpada, Kalyan. |] | |
| 2. | Shri Prabhakar Murlidhar Ahirrao |] | |
| | Age 78 years, Occupation - Retired |] | |
| | R/o. B-1, Parshuram Pride, Morwada B, |] | |
| | Cabin Road, Ambernath (E), Tal. & Dist. Thane] | | |
| 3. | Smt. Kamal Prabhakar Ahirrao |] | |
| | Age 69 years, Occupation - Housewife |] | |
| | R/o. B-1, Parshuram Pride, Morwada B, |] | |
| | Cabin Road, Ambernath (E), Tal. & Dist. Thane] | | |
| 4. | Shri. Chandrashekhar P. Ahirrao |] | |
| | Age 55 years, Occupation - Service |] | |
| | R/o. B-1, Parshuram Pride, Morwada B, |] | |
| | Cabin Road, Ambernath (E), Tal. & Dist. Thane] | | |
| 5. | Smt. Shilpa C. Ahirrao |] | |
| | Age 43 years, Occupation - Housewife |] | |
| | R/o. B-1, Parshuram Pride, Morwada B, |] | |
| | Cabin Road, Ambernath (E), Tal. & Dist. Thane] | | |
| 6. | Shri Yash C. Ahirrao |] | |
| | Age 25 years, Occupation - Student |] | |
| | R/o. B-1, Parshuram Pride, Morwada B, |] | |
| | Cabin Road, Ambernath (E), Tal. & Dist. Thane] | | |
| 7. | Smt. Vaishali S. Rumale |] | |
| | Age 50 years, Occupation - Housewife |] | |
| | R/o. 3/801, Sai Vrindavan Society, |] | |
| | Opp: Cinemax, Behind KDMC KCB Ward |] | |
| | Office, Kalyan Thane |] | |
| 8. | Shri Sunil S. Rumale |] | |
| | Age 52 years, Occupation - Service |] | |
| | R/o. 3/801, Sai Vrindava Society, |] | |
| | Opp: Cinemax, Behind KDMC KCB Ward |] | |
| | Office, Kalyan Thane. |] | |
| | V/s. | | ... Petitioners. |
| 1. | The State of Maharashtra |] | |
| | through Ambad Police Station, |] | |
| | Dist. Nashik |] | |
| 2. | Nanda Parag Ahirrao |] | |

Age 34 years, Occupation – Service,]
C/o. Gokul Hiram Bhamare,]
30, Muktai CHSL Ltd., Kamathwada]
Shivar, Opp: Pawannagar Tank,]
Nashik 422 010.] ... Respondents.

....

Mr. Sumit S. Kothari, for the Petitioners.
Ms. M.H. Mhatre, APP for Respondent No.1-State.
Mr. Gautam J. Jain, for Respondent No.2.
Respondent No.2 present in the Court.

....

**CORAM : PRASANNA B. VARALE &
ANIL S. KILOR, JJ.
DATED: 10th FEBRUARY, 2022.**

P.C.:-

1. Heard learned counsel for the Petitioners, learned APP for Respondent No.1 and learned counsel for Respondent No.2. Respondent No.2-Nanda Parag Ahirrao is also present before this court by virtual mode.

2. The petition is filed for seeking quashment of the First Information Report Crime No.307 of 2018 resulted in charge-sheet being filed before the competent court and in the Regular Case No. 85 of 2019 filed at Chief Judicial Magistrate, Nashik.

3. The marriage between the Petitioner No.1-Parag Ahirrao and Respondent No.2-Nanda was solemnized on 6th March, 2016 at Nashik. It seems that due to certain differences and on account of a matrimonial discord report was lodged at the police station at the instance of Respondent No.2 against the Petitioners for commission of the offences punishable under Sections 498A, 377, 354, 323, 504, 506 read with 34 of Indian Penal Code.

4. Perusal of the materials placed on record show that apart from the proceedings arising out of the crime registered at the police station from where certain parallel proceedings between the parties, perusal of the copy of the memorandum of understanding arrived between the parties produced on record at Ex.F showing that the Respondent No.2 that no issue was borne out of wedlock between the couple. It further reveals that the Respondent No.2 granted for acceptance of an amount of Rs.15 lakhs as an amount of permanent alimony and settlement. In paragraph No.5 of the terms of the memorandum of understanding the mode of payment of the amount and the time framed of payment is referred to. On a specific query the Respondent No.2 has also filed on record an affidavit supporting the memorandum of understanding terms as well as expressing her free will of quashing the FIR and proceedings. On a specific query put to Respondent No.1 who is present before court, the Respondent No.1 admitted that the first installment of the permanent alimony amount i.e. Rs.7,50,000/- would be handed over to Respondent No.2 on receipt of decree of divorce. The perusal of the memorandum of understanding further show that the Respondent No.2 submitted her willingness to co-operate the Petitioners for the proceedings pending between the parties including the FIR Crime No.307 of 2018 and proceedings arising out of the FIR in Regular Case No.85 of 2019.

5. Considering the above referred facts, we have the opinion that continuation of the proceedings arising out of Crime No.307 of 2018 would be nothing but an act of futility and we are of the opinion that learned counsel for the Petitioners have made out the case for allowing the petition.

6. 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 no purpose would be served by keeping the 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 subject FIR is required to be quashed. The petition is allowed in terms of prayer clauses (a), (b) and (c) and is disposed of as such.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)