

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.2740 OF 2018

Kishor Gokul Birari & ors.

... APPLICANTS

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. Yogesh H. Jadhav, Advocate holding for
Mr. Girish A. Nagori, Advocate for applicants
Mr. Rupesh A. Jaiswal, Advocate holding for
Mr. Amit Savale, Advocate for respondent
.....

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R.M. JOSHI, JJ.**

DATE : 28th FEBRUARY, 2023

P.C. :

With the consent of learned counsel for rival parties,
heard finally at the stage of admission.

2. This is an application for under Section 482 of the Code of Criminal Procedure to quash First Information Report being Crime No.150/2017, registered with Nandurbar Upnagar Police Station and the consequential criminal proceedings bearing R.C.C. No.47/2018, pending on the file of learned Judicial Magistrate, First Class, Nandurbar for the offences

punishable under Sections 420, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. The aforesaid crime was registered pursuant to the First Information Report lodged by the respondent No.2. The marriage between the respondent No.2 and the applicant No.1 was solemnized on 13/2/2017. She claims that at the time of marriage the applicants have falsely stated that the applicant No.1 was employed. Immediately after her marriage, her in-laws told her that the applicant No.1 is unemployed and demanded a sum of Rs.5,00,000/- to secure Government employment. She claims that her husband and his family members subjected her to physical and mental cruelty for meeting the unlawful demand of dowry. It is on the basis of such allegations the crime came to be registered against these applicants as well as the other family members of the applicant No.1.

4. The records reveal that the crime registered against the co-accused Bablu @ Jitendra Gokul Birari was quashed by this Court vide judgment and order dated 27/6/2018 in Criminal Application No.3769/2017. The Hon'ble Supreme Court also quashed the First Information Report as well as criminal proceedings against five other co-accused on the ground that

no prima facie case was made out against them. These applicants who had not succeeded in the previous round of litigation, have once again filed an application to quash the First Information Report and the criminal proceedings on the ground that subsequently the matrimonial dispute between the applicants and respondent No.2 has been settled amicably.

5. Learned counsel for the applicants has placed on record copies of the the Memo of Hindu Marriage Petition No.120/2019 and judgment dated 19/8/2019, passed by learned Civil Judge, Senior Division, Amalner, District Jalgaon. The same are taken on record. Perusal of the said judgment reveals that there is no possibility of reconciliation and that both the parties have entered into settlement and had decided to dissolve the marriage with consent. Accordingly, the marriage came to be dissolved by judgment dated 19/8/2019. The copy of the memo of Hindu Marriage Petition No.120/2019 reveals that the respondent No.2 had agreed to withdraw all the allegations made by her against these applicants and to give no objection to quash the First Information Report No.150/2017 and the consequential criminal proceedings bearing R.C.C. No.47/2018, pending on the file of learned Judicial Magistrate, First Class, Nandurbar.

6. In the light of the settlement arrived at between the parties, the marriage stands dissolved under Section 13-B of the Hindu Marriage Act. Since the respondent No.2 has given her no objection to quash the criminal proceedings and considering the principles laid down by the Hon'ble Apex Court in case of B.S. Joshi Vs. State of Haryana [AIR 2003 SC 1386], in our considered view, this would be a fit case to exercise inherent powers under Section 482 of the Code of Criminal Procedure as to secure the ends of justice.

7. Under the circumstances, the application is allowed in terms of prayer clause (B). Consequently, First Information Report being Crime No.150/2017, registered with Nandurbar Upnagar Police Station and the consequential criminal proceedings bearing R.C.C. No.47/2018, pending on the file of learned Judicial Magistrate, First Class, Nandurbar for the offences punishable under Sections 420, 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code stand quashed.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

fmp/-