

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

CRIMINAL WRIT PETITION NO. 299 OF 2023

Neel Umesh Shah

...Petitioner

Versus

1. The State of Maharashtra

2. Julie Neel Shah

...Respondents

Mr. Raviraj S. Gamare a/w Dr. Surekha Surve and Ms. Richa Malankar, for the Petitioner.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1– State.

Ms. Priyanka Tiwari i/b Mr. Ashley Cusher, for the Respondent No.2.

PSI – Sonawane, Charkop Police Station, Mumbai, is present.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 17th JANUARY 2023

P.C. :

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives

notice on behalf of the respondent No.1–State. Ms. Tiwari waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code, the petitioner seeks quashing of the FIR bearing C.R. No. 85 of 2022, registered with the Charkop Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 323, 504 and 506 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner is the husband of the respondent No.2. It appears that the petitioner and the respondent No.2 got married on 29th November 2003 and from the said wedlock have two children, aged 18 and 15 years respectively. As according to the respondent No.2, she was ill-treated and harassed by the petitioner, she lodged the aforesaid FIR, as against the petitioner, alleging the aforesaid offences. Admittedly, charge-sheet has not been

filed in the said case, till date.

5. It appears that apart from the aforesaid proceeding, Domestic Violence proceedings were initiated by the respondent No.2 and Marriage Petition was also instituted by the petitioner. During the pendency of the aforesaid proceeding, the parties decided to amicably settle their dispute and decided to put a quietus to the same. Pursuant thereto, the parties entered into revised consent terms and filed the same in the Family Court at Bandra, Mumbai in Marriage Petition No.F-2384 of 2022. As per the consent terms, by way of full and final settlement, the petitioner is to pay a sum of Rs.15 lakhs to the respondent No.2 in installments as spelt out in the said consent terms. As far as custody of the children is concerned, the permanent custody is to remain with the petitioner and that the petitioner has agreed to maintain them in future. However, temporary access to the children as mutually decided would be given to the respondent No.2 as per clauses – 4 to 6 of the consent terms.

6. Learned Counsel for the respondent No. 2 states that the respondent No.2 has filed her affidavit in the registry. Since the registry has not placed the said affidavit before us, the learned counsel for the respondent No.2 has tendered a photocopy of the said affidavit dated 4th January 2023, duly affirmed before the Assistant Registrar, High Court, Appellate Side. The said photocopy is taken on record. Registry is directed to place the original affidavit of the respondent No.2 on record. In the said affidavit, the respondent No.2 has stated that the matter has been amicably settled as per the consent terms and that she has no objection to the quashing of the FIR registered at her behest. Respondent No.2 is present in Court. On questioning, she re-iterates what is stated by her in her affidavit. Learned counsel for the respondent No. 2 has tendered a self attested photocopy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the original aadhar card of the respondent No.2.

7. Considering the relations between the parties, the amicable settlement between them, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the petition.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 85 of 2022, registered with the Charkop Police Station, Mumbai, is quashed and set-aside.

9. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

10. Learned Counsel for the respondent No.2 to file his Vakalatnama, if not filed, on behalf of the said respondent, in the

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

registry, within two weeks of uploading of this order.

12. All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.