

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

CRIMINAL WRIT PETITION NO. 1003 OF 2023

Yuvraj Suresh Pathak and Ors. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

**WITH
CRIMINAL WRIT PETITION NO. 1106 OF 2023**

Yuvraj Suresh Pathak ...Petitioner

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Abhishek Sathe i/by Ms. Shagufa Patel, Advocate for Petitioner.

Ms. Jaymala Ostwal i/by J.J. Associates, Advocate for Respondent No.2.

Mr. Ajay Patil, APP for Respondent – State.

Mrs. Vaishali Yuvraj Pathak, Respondent No.2 Present in Person.

PSI, Sonawane (Pairavi), Charkop Police Station in Writ Petition No. 1003 of 2023.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 27th MARCH, 2023.

PER COURT:-

. Rule. Rule is made returnable forthwith with consent of parties Petitions were heard for final disposal.

1. Petitioners in Criminal Writ Petition No.1003 of 2023 were arraigned as accused in C.R. No.904 of 2022 registered with Charkop Police Station at the instance of Respondent No.2 for offences under Sections 498-A, 323, 504, 506 r/w 34 of Indian

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Penal Code (for short 'IPC'). The First information Report (for short 'FIR') was registered on 13th October, 2022. Petitioner No.1 is the husband of Respondent No.2. Petitioner Nos. 2 and 3 are sisters-in-law of Respondent No.2. The marriage between Petitioner No.1 and Respondent No.2 was solemnized on 30th May, 2013.

2. The allegations in C.R. No. 904 of 2022 refers to alleged harassment caused to Respondent No.2 by the Petitioners/accused resulting in physical and mental cruelty. On completing investigation charge-sheet was filed and the proceedings are pending before the Court of Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai vide C.C. No.195/PW/2023.

3. Criminal Writ Petition No.1106 of 2023 is preferred challenging proceedings arising out of FIR in C.R. No.947 of 2022 registered with Charkop Police Station by Respondent No.2 for offence under Sections 307, 504 and 506(2) of IPC. The complainant has alleged that on 3rd November, 2022 the Petitioner had assaulted her and threatened her that she would be killed.

4. The parties have arrived at amicable settlement. The Petitioner No.1 and the complainant has filed the Petition for

divorce before the Family Court at Bandra, Mumbai under Section 13-B of Hindu Marriage Act. The Petitioner No.1 (Husband) filed an affidavit in the said proceedings and stated that, divorce decree by mutual consent may be granted. The Respondent No.2 has filed affidavit in the said proceedings supporting the prayer for divorce by mutual consent. Both the parties filed consent terms in the said proceedings. It was agreed that, Petitioners would prefer Petitions/applications before the High Court for quashing both the FIR's and or charge-sheet filed therein and the Respondent No.2 shall file an affidavit of consent for quashing both FIRs/charge-sheet. The Respondent No.2 has filed affidavits in both the Petitions and supported the prayer for quashing the respective FIRs/charge-sheet under challenge in both the Petitions.

5. The complainant/Respondent No.2 is present in the Court. She has confirmed the consent terms/affidavit through her Advocate and also stated that, proceedings against Petitioner be quashed with her consent.

6. Learned Advocate for Petitioner No.1 on instructions submitted that, Petitioner would pay an amount of Rs.50,000/- towards the cost to Central Police Welfare Fund within a period of two weeks from the date of uploading this order.

Bank Name : Axis Bank Ltd.
Branch Name : Worli, Mumbai – 400 025
Account Name : Central Police Welfare Fund
Account No. : 9140100290055759
IFSC Code : UTIB0000060

7. The dispute between the parties arises on account of matrimonial discord. The parties have settled the dispute. They have executed consent terms. Matrimonial proceedings are initiated before the Family Court seeking divorce by mutual consent. Although the FIR in C.R. No.947 of 2022 was registered for an offence under Section 307 of IPC, considering the nature of allegations, applicability of Section 307 of IPC is debatable. Taking into consideration the aforesaid circumstances, the Petitions can be allowed.

ORDER

- i. Proceedings in C.C. No. 195/PW/2023 pending before the Court of Additional Chief Metropolitan Magistrate, 24th Court, Borivali, Mumbai are quashed and set aside.
- ii. First Information Report in C.R. No.947 of 2022 registered with Charkop Police Station is quashed and set aside.

iii. Rule is made absolute in terms of prayer Clause-a in both the Petitions.

iv. The Petitioner No.1 shall deposit an amount of Rs.50,000/- in the account of Central Police Welfare Fund within a period of two weeks from date of uploading this order. In the event, the amount is not deposited, the Petitions would stand revive and Petitioners will have to face the proceedings.

[PRAKASH D. NAIK, J.]

[A. S. GADKARI, J.]