

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.494 OF 2023

Jamir Rafique Wanjwarkar

...Petitioner

V/s.

The State of Maharashtra and Anr.

...Respondents

WITH

CRIMINAL WRIT PETITION NO.989 OF 2023

Wajid Rafiq Wanjwarkar

...Petitioner

V/s.

The State of Maharashtra and Anr.

...Respondents

WITH

CRIMINAL WRIT PETITION NO.1177 OF 2023

Mohd. Rafique Dawood Wanjwarkar & Anr.

...Petitioners

V/s.

The State of Maharashtra and Anr.

...Respondents

Mr. Vishwajeet V. Mohite for the Petitioners.

Mrs. G. P. Mulekar, A.P.P. for Respondent No.1-State.

Mr. Siddharth R. Karpe for Respondent No.2.

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

DATE : 3rd APRIL 2023.**P.C.:-**

. The Petitioners in all the Petitions were arraigned as accused in C.R. No.49 of 2021 registered with Goregaon Police Station for offences under Sections 498(A), 504, 506, 323 read with Section 34 of Indian Penal Code (*for short 'IPC'*) and Sections 3 & 4 of the Dowry Prohibition Act, 1961.

2. The Petitioner in Criminal Writ Petition No.494 of 2023 is the husband of Respondent No.2. The Petitioner in Criminal Writ Petition No.989 of 2023 is the brother-in-law of Respondent No.2 and Petitioners in Criminal Writ Petition No.1177 of 2023 are father-in-law and mother-in-law of Respondent No.2.

3. The First Information Report (*for short 'FIR'*) was registered at the instance of Respondent No.2 on 4th February 2021 alleging that, the marriage of Respondent No.2 was performed with the Petitioner Jamir Rafique Wanjwarkar in December 2016. Pursuant to the marriage, she was abused, threatened and assaulted by the accused. She was subjected to physical and mental cruelty. There was demand of dowry. Her stridhan was retained by the accused.

4. Learned Advocates representing Petitioners in all the Petitions and Respondent No.2/Complainant submitted that, both the parties have amicably settled the disputes and they have filed 'Consent Terms'. In accordance with the said 'Consent Terms' it is agreed by Respondent No.2 that, the FIR can be quashed with her consent. Reliance is placed on the 'Consent Terms' executed between the parties which were tendered during the course of hearing. The 'Consent Terms' are taken on record.

5. The Respondent No.2/Complainant has tendered the 'Affidavit of Consent' in support of prayers for quashing the FIR made in these Petitions. It is thus submitted that, in view of the 'Consent Terms' signed by both the

parties and the Affidavit of Respondent No.2/Complainant, the proceedings may be quashed.

6. The Respondent No.2/Complainant was present in the Court on 31.03.2023 and through her Advocate she had conveyed her consent for quashing the impugned FIR in view of settlement between the parties.

7. The Affidavit of Respondent no.2 is perused. In the said Affidavit she has stated that, in the light of 'Consent Terms' she is giving her unconditional and unqualified consent to quash and set aside the FIR No.49 of 2021 registered with Goregaon Police Station, Mumbai with the Look Out Circular issued against the Petitioners. We have also perused the 'Consent Terms' executed between the Petitioner Jamir Rafique Wanjwarkar and the Complainant Neelam Jamir Wanjwarkar. The 'Consent Terms' refers to the settlement amount paid by the Petitioner-husband and the amount towards the education of child paid by the Petitioner-husband.

8. Considering the nature of dispute, the relations between parties, settlement between them, execution of 'Consent Terms' and Affidavit of 'no objection' filed by Respondent No.2, the impugned FIR can be quashed.

9. Hence, the following Order :

ORDER

(i) Criminal Writ Petition No.494 of 2023; Criminal Writ Petition No.989 of 2023 and Criminal Writ Petition No.1177 of 2023 are allowed.

(ii) The FIR dated 04.02.2021 registered with Goregaon Police Station, Mumbai vide C.R. No.49 of 2021 at the instance of Respondent No.2 is quashed and set aside.

(iii) Look Out Notice, if any issued in respect to the FIR dated 04.02.2021 registered with Goregaon Police Station, Mumbai vide C.R. No.49 of 2021 is quashed and set aside.

(PRAKASH D. NAIK, J.)

(A.S. GADKARI, J.)