

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

CRIMINAL WRIT PETITION NO.1351 OF 2023

- | | | |
|--|--|----------------|
| 1. Sneha Nimit Poddar, | | |
| Age : 37 Yrs., Indian Inhabitant, | | |
| R/at No.302, Building No.9, Lodha Eternis, | | |
| MIDC Mahakali Caves Gundavali, | | |
| Road No.11, Andheri (East), Mumbai-400093. | | |
| 2. Rajendra Luharuwala, | | |
| Age : 59 Yrs., Indian Inhabitant, | | |
| R/at 83, Madhusurani Searsol Rajbari, | | |
| Raniganj Police Station, West Bardhaman, | | |
| Dist. Paschim Bardhaman 713358, West Bengal. | | .. Petitioners |

Versus

- | | | |
|------------------------------------|--|----------------|
| 1. State of Maharashtra, | | |
| Through Inspector-in-Charge, | | |
| Vashi Police Station, Navi Mumbai. | | |
| 2. Nimit Awatar Poddar, | | |
| Age : 38 Yrs., Indian Inhabitant, | | |
| R/at 605/606, Vardhaman Palace, | | |
| Flat No.48, Sector 17, Vashi, | | |
| Navi Mumbai – 400 703. | | .. Respondents |

Mr. Devashish Godbole for the Petitioners.

Mr. J.P. Yagnik, APP for Respondent No.1-State.

Mr. P.S. Nagargoje for Respondent No.2.

Mr. Nimit Awatar Poddar – Respondent No.2 – is present in court.

CORAM : SUNIL B. SHUKRE & M.M. SATHAYE, JJ

DATE : 12TH APRIL, 2023.

ORAL JUDGMENT : { Per Sunil B. Shukre, J. }

1. RULE. Rule made returnable forthwith. Heard finally, by consent of

learned counsel for the petitioners, learned counsel for respondent no.2 and learned APP for respondent no.1-State.

2. We have heard respondent no.2 – the complainant, at whose behest Crime No.157 of 2022 for an offence punishable under Section 380 of the IPC has been registered against the petitioners. The learned counsel for the petitioners and the learned counsel for respondent no.2, both, state that this crime was result of a larger dispute, which was really a dispute between petitioner no.1 and respondent no.2, who are married to each other. It is submitted that the prime dispute was matrimonial and private in nature.

3. While learned counsel for the petitioners is present, petitioners are not personally present. Respondent no.2, along with his counsel, is present before the court and he is identified by his counsel. Upon enquiry made by us with respondent no.2, he states that he has voluntarily settled his entire dispute with the petitioners and, therefore, he has filed consent affidavit in this court giving his consent for quashing of the FIR. He states that the settlement that he has arrived at with the petitioners is voluntary and he has now no complaint of any criminal nature against both the petitioners.

4. We have gone through the consent affidavit and we find that the settlement that has arrived at between the parties is voluntary in nature. On going through the FIR, we further find that the dispute between the petitioners

on the one hand and the respondent no.2 is basically matrimonial in nature and thus has several overtones. It does not involve any aspect of public policy. Such being the nature of the dispute, we find no difficulty in accepting the settlement between the parties.

5. Accordingly, accepting the settlement between the parties, we allow the petition and pass the following order :-

(i) Petition is allowed in terms of prayer clause (a), which reads as under :-

“(a). That this Hon’ble Court be pleased to pass appropriate writ, order and direction directing the quashing of F.I.R. No.0157 of 2022 qua both the petitioner nos.1 and 2 under the provisions of Section 380 of the Indian Penal Code, 1860 registered by the respondent no.1 at the behest / complaint of the respondent no.2, on such terms and conditions as this Hon’ble Court may deem fit and proper.”

(ii) This is subject to the condition that the petitioner nos.1 and 2 shall deposit an amount of Rs.15,000/- each and respondent no.2 shall also deposit an amount of Rs.15,000/- in the account of the Maharashtra State Legal Services Authority, Mumbai within a period of four weeks from the date of the order, failing which this order shall stand cancelled

automatically and shall be listed before this court for further directions.

(iii) Petition be placed before the learned Registrar (Judicial-II) for verifying compliance with the directions of this court. If it is found by the learned Registrar (Judicial-II) that the directions in this order are not complied with, the learned Registrar (Judicial-II) shall place this petition before this court for further directions.

6. Rule is made absolute in the above terms. Petition is disposed of.
7. List the petition on 5th June 2023 for recording compliance.
8. All concerned to act on the authenticated copy of this order.

[M.M. SATHAYE, J.]

[SUNIL B. SHUKRE, J.]