

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.532 OF 2022**

1. Yogesh Hareshwar Keny	]	
2. Lalit Hareshwar Keny	]	
3. Hemali Lalit Keny	]	
4. Mangala Hareshwar Keny	]	
5. Prashant Mukund Keny	]	
6. Bharti Mangesh Bhanji	]	Applicants

Vs.

1. Chaithali Yogesh Keny nee	]	
Chaithali Anant Gharat	]	
2. Sr. Inspector of Police,	]	
Malad Police Station, Malad,	]	
Mumbai - 400 097.	]	
3. State of Maharashtra	]	Respondents

.....

Mr. O.R. Tiwari, for Applicants.

Mr. Mohit Darji i/b A.R. Kale, for Respondent No.1.

Mr. J.P. Yagnik, A.P.P, for Respondents No.2 and 3-State.

.....

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

DATE : 4th January, 2023.

ORDER: [Per Prithviraj K. Chavan, J.]

1. Heard.

2. It is informed to the Court that one of the accused namely Hareshwar Keny had expired on 27th March, 2022 and, therefore, case against him stands abated. Accused Nayana Chimbaikar is permanently staying at Australia. She has not been arrested and there is nothing against her.

3. Rule.

4. Rule is made returnable forthwith, with the consent of the parties. Application is taken up for final hearing.

5. Mr. Darji, learned Counsel waives service on behalf of respondent No.1. Learned A.P.P waives notice on behalf of respondents No.2 and 3-State.

6. By this application under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the applicants

seek quashing of the F.I.R bearing No.327 of 2019, registered with Malad Police Station, Mumbai for the alleged offences punishable under sections 498-A, 323, 504, 406 r/w 34 of the Indian Penal Code (for short "I.P.C") and Criminal Case No.3498/PW of 2019 pending before the Additional Chief Metropolitan Magistrate, 24th Court at Borivali. Quashing is sought on the premise that the parties have amicably settled their dispute.

7. Briefly stated, facts are as under.

8. Applicant No.1 is the husband of respondent No.1, applicant No.2 is the brother-in-law, applicant No.3 and 6 are the sisters-in-law, applicant No.4 is the mother-in-law and applicant No.5 is the maternal uncle of applicant No.1.

9. Applicant No.1 was married with respondent No.1 on 27th March, 2022 as per Hindu Vedic rites at Thane. The Couple resided together at the matrimonial house till 9th April, 2018. Thereafter, they separated. Since then respondent No.1 is residing at her natal house. From their wedlock, a daughter

was born namely Tanishka on 11th October, 2018. Daughter is now aged about four years.

10. Allegations as transpired from the First Information report are as under.

11. Ever since her marriage with applicant No.1, all the applicants started harassing and ill-treating respondent No.1 by forcing her to clean utensils, washing clothes and to do all the menial work. The applicants were persistent in their demand of L.C.D T.V, Fridge and Washing Machine to be brought from her father. They had a grudge that during marriage of respondent No.1, her parents had not paid the amount of dowry. Applicants used to suspect the fidelity of respondent No.1 and, therefore, had snatched her mobile phone. She was restrained from going out of the house. She was even restrained from going to her natal house on the occasion of festivals. When she was pregnant, it is alleged that she was administered some tablets which were not duly prescribed, resulting into high blood pressure.

12. Applicants had grabbed her *Stridhan* which includes a gold Mangalsutra, two gold necklaces, one nose ring, ear rings, one *ganthan* of 150 gram and four gold bangles. Applicant No.1 by deceitful means withdrew Rs.1,40,000/- from the account of respondent No.1 in Canara Bank, Branch Kolshet, Thane.

13. On 9th April, 2018, the applicants started ill-treating, abusing and assaulting respondent No.1 with an object to drive her from home. They threatened her that if she approaches the Police, they would never accept her. The applicants called her parents and asked them to take respondent No.1 with them. They had also demanded a flat and a four wheeler from her father.

14. Attempts were made through the relatives, friends and mediator to reconcile, however, there was no progress in the behaviour of the applicants. She was also kept starving on some occasions by the applicants. Since atrocities by the applicants were unbearable, an F.I.R came to be lodged by the respondent No.1 against them.

15. The parties have now decided to amicably settle the dispute. A Divorce Petition by mutual consent under section 13 B of the Hindu Marriage Act came to be filed before Principal Judge Family Court, Thane bearing M.P. No.A-132 of 2021. Marriage between respondent No.1 and her husband dissolved by decree of divorce. Applicant No.1 had deposited an amount of Rs.25,00,000/- towards permanent alimony in the Family Court, Thane. The said amount is to be payable to respondent No.1 after quashing the present criminal proceedings.

16. Affidavit of respondent No.1 dated 3rd October, 2022 duly notarized before the Notary is annexed with the application. In the said affidavit, respondent No.1 has given her no objection to quashing of the criminal proceedings registered against the applicants, in view of amicable settlement between the parties.

17. Respondent No.1 is present in the Court. On being questioned, respondent No.1 reiterates what is stated by her in her affidavit. Photostat copy of Aadhar Card of respondent No.1 is tendered. It is taken on record. Learned Counsel for

respondent No.1 has identified her. Learned A.P.P has verified the original Aadhar Card of respondent No.1.

18. Considering the nature of the dispute, relations between the parties, amicable settlement between them, affidavit of respondent No.1 and having regard to the judicial pronouncements of the Apex Court in case of **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the application.

19. The application is accordingly allowed. The F.I.R bearing No.327 of 2019 registered with the Malad Police Station, Mumbai, as against the applicants for the alleged offences punishable under sections 498-A, 406, 323, 504 r/w 34 of the I.P.C and consequently the proceeding pending before the Additional Chief Metropolitan Magistrate, Borivali, being C.C. No.3498/PW of 2019, are quashed and set aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

20. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

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

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]