

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL APPLICATION NO.869 OF 2023

Mukesh Chandrababu Nair @
Mukesh Chandrababu & Ors. ..Applicants
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Mandar Sawant i/by Sunita Sawant, for the Applicants.
Mr. S. V. Gavand, APP for the Respondent/State.
Ms. Kamlesh Pandya, for the Respondent No.2.

CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.

DATE : 12th OCTOBER, 2023

PC.

1. Prayer is for quashing of FIR being Crime No. 426 of 2022 registered with Dharavi Police Station for the offence punishable under Sections 498A, 323, 504, 406 of IPC and Sections 3 and 4 of Dowry Prohibition Act.

2. The applicant No.1 was married to respondent No.2/complainant on 10th November, 2013. We are informed that no issue is born out of aforesaid marriage. The parties have entered into a settlement and accordingly consent terms are placed before the Family Court, Mumbai at Bandra in Petition No.A-1500 of 2022, which was initiated by the applicant No.1. The parties have agreed to withdraw all the allegations made against each other and further

agree to convert divorce proceeding that of divorce by mutual consent.

3. The applicant No.1 has offered an amount of Rs.3,00,000/- towards one time alimony, out of which Rs.2,00,000/- was agreed to be paid through Demand Draft in favour of respondent No.2/complainant on 25th April, 2023 and Rs.1,00,000/- on the date of passing of the decree by mutual consent.

4. In this background, respondent No.2/complainant has placed on record consent affidavit extending consent for quashing.

5. We have requested learned APP Mr. S. V. Gavand to interact with the respondent No.2/complainant so as to find out whether the consent is extended out of free will and without coercion. Learned APP Mr. S. V. Gavand upon interacting with respondent No.2/complainant informs that the respondent No.2/complainant has voluntarily executed consent terms which are submitted before the Family Court. It is further submitted by the respondent No.2/complainant through learned APP that the consent terms are submitted out of her free will and without coercion. The respondent No.2/complainant acknowledges receipt of amount of Rs.2,00,000/- as has been reflected in the consent terms, which are submitted before the Family Court. In the backdrop of aforesaid and having regard to the fact that the respondent No.2/complainant is extending consent for quashing out of her own free will, so also,

having regard to the law laid down by the Apex Court in the matter of *Gian Singh Vs. State of Punjab & Anr.* reported in (2012)10 SCC 303 and *Narinder Singh & Ors. Vs. State of Punjab & Anr.* reported in (2014) 6 SCC 466, we deem it appropriate to allow the present application.

6. The application as such stands allowed in terms of prayer clause (a), subject to payment of cost of Rs.10,000/- to be paid by each of the applicant to The Children Aid Society (*Bank Name: UCO Bank, A/C No.02370100005612, IFSC Code: UCBA0000237*) within six weeks and receipt of payment of cost be produced with the Registry within same period, failing which the order of quashing the criminal proceedings against the applicants shall stand recalled and this Court will be constrained to proceed against the applicants in accordance with law.

7. The application as such stands disposed of.

[N. R. BORKAR, J.]

[NITIN W. SAMBRE, J.]