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Uday S. Jagtap

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

CRIMINAL APPLICATION NO. 668 OF 2021

XYZ

.. Applicants

Vs.

The State of Maharashtra & Anr.

.. Respondents

.....

Dr. Uday P. Warunjikar for the applicants

Mr. Y.M. Nakhwa, APP for the respondent – State

Mr. Avinash Avhad for the respondent no.2

.....

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

DATED : 23rd JANUARY, 2023.

ORDER : - (Prithviraj K. Chavan)

1. Heard learned Counsel for the parties.
2. Since the Registry has not placed the papers before us, we have accepted the copies from the parties.
3. At the outset, learned Counsel for the applicants requests for truncating the names of the applicants and the respondents, in view of their future prospects of marriage. Registry is directed to

truncate the names of all the parties.

4. Rule. Rule is made returnable forthwith. With the consent of the parties, the application is taken up for final disposal at the stage of admission. Mr. Nakhwa, learned A.P.P waives notice on behalf of the respondent no.1 – State. Mr. Avhad, learned Counsel waives notice on behalf of the respondent no.2.

5. By this application, preferred under Article 226 of the Constitution of India and under section 482 of the Code of Criminal Procedure, the applicants seek quashing and setting aside of the FIR registered vide C.R. No.0003 of 2020 with the Kothrud Police Station, Pune for the offences punishable under Sections 325, 498A, 323, 504, 506, 406 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

6. A few facts necessary for disposal of the application are as under :-

7. Respondent no.2 is the first informant and wife of the applicant no.1. Applicant nos. 2 and 3 are the parents of the

applicant no.1 and applicant no.4 is the daughter of applicant nos. 2 and 3. All the parties are educated and well qualified.

8. The marriage of the applicant no.1 was solemnized on 13.02.2015 as per rituals of Hindu religion at Siddharth Palace, Pune. In May 2015, respondent no.2 shifted to Navi Mumbai. It is alleged that under the pretext of safety, mother-in-law of the respondent no.2 took all her stridhan comprising 10 to 12 *tolas*, which was given to the respondent no.2 by her parents. There are allegations of ill- treatment and harassment at the hands of the applicants *qua* the respondent no.2. On one occasion, the applicant no.1 at the instance of applicant nos.2 and 3, compelled the respondent no.2 to consume I-pills for the purpose of aborting the foetus. It was alleged that the applicant no.1 did not take her to the doctor nor allowed her parents to do so. When the applicant no.1 got a job at Mphasis, they shifted to Pune and started residing in a joint family. The respondent no.2 was continued to be harassed and subjected to domestic violence and was constrained to work like a maid servant. The respondent no.2 started working with IIFL company. Ultimately, an FIR came to be lodged against the applicants for the alleged offences as above.

9. On 06.09.2022, the parties expressed their willingness to go for a mediation and, accordingly, this Court appointed Justice (Retd.) Mrs. Shalini Phansalkar Joshi, as a Mediator.

10. Accordingly, the parties appeared before the learned Mediator. The mediation was successful, pursuant to which, the parties have entered into the consent terms. The consent terms, dated 11.01.2023 which are self-explanatory. A scanned copy is extracted below : -

CONSENT TERMS ON BEHALF OF PARTIES

1. The Petitioner and Respondent are husband and wife and their marriage was solemnized as per the rituals of Hindu Marriage Act on 13/02/2015 at Siddharth Palace Pune.
2. That there is a matrimonial dispute pending between the parties which has led to filing various cases against each other.
3. Both the parties have agreed to amicably settle all their disputes with the active intervention of Mediator, appointed by this Hon'ble Court, Justice (Retired) Shalini Joshi (Phansalkar) Madam on the following terms agreed between the parties:

- a. That Petitioner has agreed to pay Rs. 50,00,000/- (Rs. Fifty Lac only) to the Respondent as and by way of one time settlement against permanent alimony. That the said amount is inclusive of everything i.e. claim of stridhan, right of residence etc. As such other than the said amount, the Respondent will not have any claim against the Petitioner herein or his family members. The Petitioner agrees to hand over the demand drafts amounting to Rs. 50 Lacs to the Advocate for the Petitioner Advocate Sunita S. Pagey, at the time of signing of these consent terms and the same will be handed over by Advocate Sunita S. Pagey to the respondent in the manner hereinafter described.
- b. Advocate Sunita S. Pagey will hand over the demand drafts unto the respondent as under:

No.	TIME	AMOUNT (Rs.)
1.	At the time of withdrawal of Cri. M. A. No. 1394/2020	20,00,000/-
2.	At the time of filing pursis for converting the petition for Divorce by Mutual Consent	20,00,000/-
3.	At the time of Quashing of CR No. 003/2020	10,00,000/-

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- c. That both the parties have agreed to obtain divorce by mutual consent. That Petitioner has filed a case for obtaining Divorce against Respondent before L'd Family Court, Pune. The said case is numbered as PA 1204/2021.
- d. Both the parties have agreed to take steps to convert the said matter into Petition for Divorce by mutual consent u/s. 13B of Hindu Marriage Act 1955 & will do the needful to obtain decree for Dissolution of Marriage.
- e. On receipt of the said amount, the Respondent will withdraw Cri. M. A. No. 1394/2020.
- f. That the Respondent has filed FIR (CR No.003/2020) against the Respondents under section 498A, 323, 325, 504, 506 & 34 of Indian Penal Code. That the said C.R. No. 003/2020 is registered with Kothrud Police Station, Pune and trial is pending before L'd Judicial Magistrate First Class, Pune vide case no. RCC 4617/2021.
- g. That Petitioners have approached this Hon'ble Court for quashing the said Complaint. That on receipt of amount as aforesaid, the Respondent will give consent to quash CR No. 003/20 and the proceedings before L'd JMFC, Pune vide RCC 4617/2021.



- h. Both the parties will not claim any rights in the property (past, present and future) of each other.
 - i. Both the parties will not defame each other or their family members in any manner either in person or on social media.
 - j. That both the parties will not file any cases (either civil or criminal) against each other or their family members.
 - k. With these consent terms the dispute between the parties stands settled permanently.
 - l. There is no exchange of article including gold silver ornaments and article between the parties
 - m. Both the party's to agree to appear before family court pune in P. A. No. 1204/2021 before 15th of January 2023 and do the needful to obtain decree for divorce by Mutual consent.
4. That Respondent do not have any objection to quash C.R. No. 003/20 and also Cri. M. A. No. 1394/2020 filed under the provisions of Protection of Woman from Domestic Violence Act on receipt of amount detailed as above as per agreed installments.



5. Both the parties have signed the said consent terms in the presence of Hon'ble Mediator and their advocates, who have signed in the presence of parties.

Pune

11/01/2023

11. The parties have admitted their signatures as well as the names of the respective Counsel over the consent terms. The respondent no.2 is present in person. On being asked, she admits that she has received an amount of maintenance through the demand draft. The learned Counsel for the respondent no.2 has tendered a photocopy of the Aadhar Card of the respondent no.2, duly attested by her. The same is taken on record. Learned A.P.P has verified the original Aadhar Card of the respondent no.2.

12. Having regard to the nature of offence, amicable settlement between the parties, consent terms and the judgments of the Apex Court in the matter of **Gian Singh Vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. Vs. State of Punjab & Anr.**², there is no impediment in allowing the application.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

13. Accordingly, the application is allowed and C.R. No.0003 of 2020 registered with the Kothrud Police Station, Pune is quashed and set aside.

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

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]