

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 6003 OF 2021**

Rajat Kapoor And Anr.

...Petitioners

Versus

The State Of Maharashtra & Ors.

...Respondents

Mr. Subhash Jha a/w Ms. Meena Mishra i/by Law Global for
Petitioners.

Mrs. M. M. Deshmukh, APP for Respondent Nos.1& 2-State.

Ms. Sonal Modi i/by J. B. Lalwani and Co. for Respondent No.3.

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

DATE : 19th APRIL 2023.

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P.C.:-

1. Leave to amend to incorporate challenge to charge-sheet in the prayer clauses granted. Amendment be carried out forthwith and in any event during the course of the day.
2. Petitioners, i.e. husband (Petitioner No.1) and sister-in-law (Petitioner No.2) of Respondent No.3 have filed present Petition for quashing of C.C. No.596/PW/2022 pending on the file of learned Metropolitan Magistrate, 60th Court, Kurla, Mumbai, arising out of C.R. No. 01 of 2021 registered with Trombay Police Station, Mumbai, under Sections 498-A, 323, 504, 406 read with 34 of the Indian Penal Code, by consent of Respondent No.3, the informant.

3. Mr. Jha, learned Advocate appearing for Petitioners submitted that, the Respondent No.3 had instituted a Divorce Petition under Section 13 (1)(ia) of the Hindu Marriage Act, 1955 before the Family Court at Bandra, Mumbai bearing Petition No.A-551 of 2021. In the said Petition, the Petitioner No.1 and Respondent No.3 had executed Consent Terms dated 28th November 2022 and settled their dispute amicably. That, in paragraph No.3(a) and 3(b) of the said Consent Terms, the Respondent No.3 had agreed to file appropriate Affidavit before this Court for quashing of Criminal Case No. 596/PW/2022 pending on the file of learned Metropolitan Magistrate, 60th Court, Kurla, Mumbai, arising out of C.R. No. 01 of 2021 registered with Trombay Police Station, Mumbai.

Mr. Jha, further submitted that, in pursuance of clause No.3(b) of the Consent Terms, the Petitioners have handed over a Demand Draft of Rs. 28,25,000/- to the Respondent No.3 today in the Court. Respondent No.3 conceded for the same.

That, the Respondent No.3 has also affirmed an Affidavit dated 30th January 2023 and in paragraph No.3 therein, she has given her 'no objection' for quashing the said proceedings.

3.1 Mr. Jha, on instructions, further submitted that, the Petitioners will comply with the other covenants mentioned in the said Consent Term without any demur. The said statement is accepted.

4. Ms. Sonal Modi, learned Advocate appearing for Respondent No.3 conceded to the fact of execution of the 'Consent Terms' dated 28th November 2022 before the Family Court at Bandra, Mumbai and affirmation of Affidavit dated 30th January 2023 by Respondent No.3. The signature of the Respondent No.3 has been duly identified by Advocate Mr.J. B. Lalwani.

4.1 Respondent No.3 is personally present in the Court and through her Advocate reiterated the contents of Affidavit dated 30th January 2023 and her 'no objection' for quashing the C.C. No.596/PW/2022, arising out of C.R. No. 01 of 2021, pending on the file of learned Metropolitan Magistrate, 60th Court, Kurla Mumbai.

5. In view of the above, Petition is allowed in terms of prayer clause (a).

(PRAKASH D. NAIK, J.)

(A. S. GADKARI, J.)