

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 989 OF 2023

Mohsin Kalim Shaikh and ors. ... Applicants

Versus

The State of Maharashtra and anr. ... Respondents

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Mr. Mohammed Umar Kazi a/w Mr. Abdul Wahad Shaikh for the Applicant.

Ms. S. S. Kaushik, APP for the State.

Mr. T. A. Mohsin for Respondent No. 2.

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**CORAM : SMT. ANUJA PRABHUDESSAI &
N.R. BORKAR, JJ.**

DATED : 29 SEPTEMBER 2023

P.C. :-

This is an application under Section 482 of Code of Criminal Procedure to quash RCC No. 3880 of 2021 pending on the file of 2nd Joint JMFC, Thane, arising from Crime No. I-582 of 2021 registered with Mumbra Police Station for offences punishable under Sections 498-A, 323, 352, 406, 504, 506 r/w 34 of the Indian Penal Code.

2. The marriage of applicant No. 1 and Respondent No. 2 was solemnized on 21 April 2016. They have two

children from the said wedlock. The applicant Nos. 2 to 5 are the family members of the applicant No. 1.

3. The respondent No. 2 lodged the First Information Report on 17 June 2021 alleging that the applicants herein had subjected her to cruelty.

4. Pursuant to the FIR lodged by the respondent No. 2, the aforesaid crime came to be registered and upon investigation of the said crime charge-sheet came to be filed before the learned JMFC, Thane.

5. The matrimonial dispute between the parties had also led to filing proceedings under Section 125 of Code of Criminal Procedure and under Section 12 of Domestic Violence Act.

6. Learned counsel for the applicants and respondent No. 2 state that the parties have settled the matrimonial dispute with the intervention of the elders/family members. It is stated that pursuant to the settlement, the respondent No. 2 has withdrawn the proceedings filed under Section 125 of Code of Criminal Procedure and

under the provisions of DV Act. It is stated that the respondent No. 2 has no objection to quash criminal proceedings pending before JMFC, Thane.

7. The parties have placed on record copy of the consent terms, which reveals that the marriage between the applicant No. 1 and respondent No. 2 is dissolved by resorting to the mode for dissolution of marriage prescribed under *Khula*.

8. As per the said consent terms the respondent No. 2 has handed over custody of the children to the applicant No. 1. The applicant No. 1 has agreed to pay total amount of Rs. 5 Lakhs to the respondent No. 2 towards full and final settlement of the claims arising out of matrimonial dispute.

9. The applicant No. 1 and respondent No. 2 are present before this Court. The respondent No. 2 confirms the contents of the consent terms and states that she has no objection to quash the FIR as well as charge-sheet arising therefrom. The respondent No. 2 further states that she

has received total amount of Rs. 4 Lakhs. The applicant No. 1 states that the balance amount of Rs. 1 Lakh shall be paid to the respondent No. 2 within a period of two days from today. Statement is accepted.

10. Having gone through the consent terms and interacted with the parties, we are satisfied that the consent terms are genuine. Considering the said fact and the dictum of the Apex Court in ***Jitendra Raghuvanshi and ors. v/s. Babita Raghuvanshi and anr. (2013) 4 SCC 58*** and ***Rangappa Javoor v/s. State of Karnataka AIR ONLINE 2023 SC 506***, in our considered view, this is a fit case to exercise discretion under Section 482 of Code of Criminal Procedure to secure the ends of justice. Hence, the following order:

- (i) The Application is allowed in terms of prayer clause (i).
- (ii) RCC No. 3880 of 2021 pending on the file of 2nd Joint JMFC, Thane, arising from Crime No. I-582 of 2021 registered with Mumbra Police Station for offences

punishable under Sections 498-A, 323, 352, 406, 504, 506
r/w 34 of the Indian Penal Code stands quashed.

(iii) Stand over to 3 October 2023 for compliance.

(N.R. BORKAR, J.) (SMT. ANUJA PRABHUDESSAI, J.)