

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1139 OF 2017**

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| 1. Ramkala Hoshiyar Singh Gothwal |] | |
| 2. Hoshiyar Singh s/o |] | |
| Chandagiram Gothwal |] | |
| 3. Shailendra Hoshiya Singh Gothwal |] | Petitioners |
| Vs. | | |
| 1. The State of Maharashtra |] | |
| 2. Sarita Sudarshan Gothwal |] | Respondents |

a/w

CRIMINAL WRIT PETITION NO.3870 OF 2022

- | | | |
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| Sudershan Kumar Gothwal |] | |
| Vs. | | |
| 1. State of Maharashtra |] | |
| 2. Sarita Sudershan Gothwal |] | Respondents |

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Mr. Anjanikumar Singh i/b Mr. Swarangshu Shekhar, for Applicants in Criminal Application No.1139 of 2017 and for Petitioner in Criminal Writ Petition No.3870 of 2022.

Mr. K.V. Saste, A.P.P, for Respondent No.1-State.

Mr. B.G. Tangsali, for Respondent No.2 in Criminal Application No.1139 of 2017 and Criminal Writ Petition No.3870 of 2022.

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

DATE : 27th January, 2023.

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

1. Heard.
2. Rule.
3. Rule is made returnable forthwith, with the consent of the parties. Application and Petition are taken up for final disposal.
4. Learned A.P.P waives notice on behalf of respondent No.1-State and Mr. Tangsali, waives notice on behalf of respondent No.2.
5. By Criminal Application No.1139 of 2017 under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C") and by Criminal Writ Petition No.3870 of 2022 under Article 226 of the Constitution of India and under section 482 of the Cr.P.C, the applicants and petitioner seek quashing of the First Information Report (for short 'F.I.R') registered vide C.R. No.232 of 2017 with Nerul Police Station, Navi Mumbai, for the alleged offences punishable under sections 498-A, 406, 354, 504, 506 r/w 34 of the Indian Penal Code (for short 'I.P.C'). Quashing is sought on the premise that the parties have amicably settled their dispute.

6. Briefly stated, facts are as follows.

7. Petitioner - Sudershan Gothwal is the husband of respondent No.2. Applicants No.1 and 2 are mother-in-law and father-in-law of respondent No.2 respectively. Applicant No.3 is the brother-in-law of respondent No.2.

8. Petitioner - Sudershan Gothwal and respondent No.2 -Sarita Sundershan Gothwal got married on 3rd June, 2015. Petitioner - Sudershan is an employee of Income Tax Department. The petitioner - Sudershan and the applicants are basically from Bhiwani, State of Haryana. It is alleged that the expenses of the marriage were borne by the parents of respondent No.2. Two cheques in the sum of Rs.71,000/- and Rs.3,51,000/- were given at the time of marriage along with gold and silver ornaments. It is alleged that for the period of six months after the marriage, the petitioner - Sudershan was unemployed. Her in-laws started harassing her mentally within two to three months of marriage, however, her husband - Sudershan used to ignore the conduct of his parents. When her husband - Sudershan was selected in the Department of Excise through Staff Selection Commission, he came

to Mumbai for the purpose of training on 20th November, 2015. The ill-treatment and harassment at the hands of the applicants and petitioner continued unabated. Respondent No.2 was continuously abused and ill-treated by the petitioner - Sudershan and the applicants. Respondent No.2 was sent to her natal house.

9. The petitioner - Sudershan and applicants- family members were in continuous demand of dowry after marriage and due to unfulfilled demands, the petitioner - Sudershan and the applicants- ill-treated respondent No.2 by abusing as well as torturing her physically and mentally.

10. It is alleged that during their stay at Pune, the petitioner - Sudershan strongly objected the respondent No.2 attending the party of her friend in a fashionable one piece dress. He suspected her fidelity. It is alleged that on 8th April, 2016, respondent No.2 had gone out for evening walk, however, after her return, petitioner - Sudershan did not open the door till midnight and, therefore, she was constrained to spend the night at her friend's house. As such, there was a continuous physical and mental harassment of respondent No.2 at the hands of the petitioner-Sudershan.

Meanwhile, respondent No.2 delivered a girl child on 7th January, 2017. However, petitioner - Sudershan did not inquire about the same. She was kept starving. Ultimately, she lodged an F.I.R, as above.

11. The parties have now decided to give a quietus to the dispute as elder and respectable persons from both the sides intervened in the matter. The parties have filed settlement agreement-consent terms dated 6th July, 2022 in Mediation Case No.301 of 2021 before Mediation and Conciliation Centre of Punjab and Haryana High Court, Chandigarh. For ease reference, Compromise/Settlement terms are reproduced below;

"1. That the Parties have fairly agreed that they will file petition under section 13 (B) of Hindu Marriage Act and will approach to the Hon'ble Court having proper jurisdiction at Bhiwani for filing the same on or before 30.08.2022. The First Party-Husband undertakes to pay to the second Party/wife & child, the total amount of Rs.41,00,000/- (Rupees Forty One Lakh only) in full and final settlement of all claims of whatsoever nature of the second party/wife alongwith child, including towards her maintenance qua wife and child, past, present and future, alimony (Permanent and. temporary) and towards reimbursement of her marriage expenses and/or all her claims qua marriage. The second party has given her

consent fairly to this fact and it has been agreed that the said amount shall be paid in the following manner:-

a) The first installment for amount of Rs.5,00,000/- (Five Lacs only) shall be paid at the time of recording first motion statement in the petition for divorce by mutual consent under Section 13 (B) of Hindu Marriage Act. It is clarified here that the petition under Section 13 of HMA has already been filed by the first party at Family Court Bhiwani. The first party shall withdraw the same or will make request to the Hon'ble Court for conversion, the same under section 13 (b) of HMA.

(b) The second installment for amount of Rs.5,00,000/ (Five Lacs Only) shall be handed over to the second party-wife at the time of decision of the petition under section 482 of Cr. P.C. for quashing of FIR. The Complainant - second party has agreed to make the statement before the Hon'ble Court in support of quashing of the said FIRs. She has further agreed that she will cooperate in all manner to get quash the aforesaid FIR case.

(c) The third and last/final installment qua the wife for amount of Rs.10,00,000/- (Ten Lacs Only) shall be paid at the time of recording of second motion statement in the petition for divorce by mutual consent under section 13(B) of Hindu Marriage Act.

(d) That for the welfare/betterment of the child's future the first party has agreed to pay Rs.21,00,000/- (Twenty One Lacs only) in the

shape of FDR, which shall be only withdrawn by the child after attaining the majority and interest occurs on that amount can be withdrawn by the second party only for the purpose of education. The first party shall produce the FDR in the name of Minor namely Latika before the Family Court at the time of recording the second motion statement in petition under Section 13B of HMA.

2. That is has been agreed between the parties that they have joint account bearing NO.30040110019139 in UCO Bank, Bhiwani, Branch and both the parties have stated that they will proceed action for closure of the account before 11.08.2022.

3. That it has been also agreed between the parties that they have bank Locker No.246 at UCO Bank, Bhiwani Branch and same shall be closed as given consent by both the parties on or before 30.08.2022.

4. That it has been agreed between the parties that they shall withdraw their cases as settled between the parties as mentioned in main Para No.6 on or before 30.08.2022.

5. That it has been stated by the second party that the following articles are lying in the possession of the First party i.e (a) Almirah, (b) Air Conditioner, (C) LED, (D) Large BOX containing cloths, (e)Dressing Table. It has been agreed between the parties that these articles will be handed over to the second party by the first party before 11.08.2022 and second party issue receipt in this regard. The second party will not claim for any other articles in future as fairly settled between the parties.

6. *That it has been agreed between the parties that the second party shall have no objection if the quashing petition bearing No.1139 of 2017 filed by the family members along with first party, is allowed in their favour. The first party Sudarshan has fairly stated that the present compromise/settlement is also being made on behalf of his parents also and they have no objection in this regard and compromise is accepted to them also.*

7. *That both the parties have fairly agreed that the minor child namely Latika will be in the custody of second party-wife and will be maintained by her in a proper manner as expected by mother. The first party shall have visitation rights to see the child at the place settled by the parties. Both the parties shall mutually decide the place telephonically and place will be decided after taking consideration of the comfortability of the child.*

8. *That it is agreed between the parties that they have settled their dispute on every issues and nothing remains left and clearly consented to this fact that all communications and photographs exchanged between the parties or their families by way of e-mails or otherwise, whether relating to marriage or not, are confidential. The parties agree and undertake to fully respect and preserve the confidentiality of such documents and photographs and shall not circulate and otherwise share these in public platforms at all in any manner in the future. If any such document including photographs of the parties together exist on any public platform, including on social media such as Facebook, Instagram, Whatsapp, Twitter, Snapchat or any other platform, then the parties here to undertake to take steps, in good faith and with due diligence to delete the same completely prior to the divorce decree being passed.*

9. *That the second party/wife agrees and confirms that other belongings, Istridhan, gifts, cloths, jewellery items, electronic items etc are lying in the possession of second party-wife and she will raise no claims in this regard in future.*

10. *That both the parties agree and undertake not to point fingers at each other and/or to defame each other or their families and/or to interfere in each other's lives.*

11. *That both the parties have fairly stated that they have not filed any criminal or Civil or quasi criminal complaint against each other or their family members except the litigation as mentioned in Para No.6. In case there is any pending litigation and/or complaints, filed by either or both the parties, the same are agreed and undertaken to be deemed to be withdrawn.*

12. *That both the parties are fully and completely satisfied with the aforesaid compromise/settlement and shall not launch any civil/criminal litigation against each other and family members in future.*

13. *That the matter has been settled amicably and voluntarily through the process of mediation without any pressure, influence, coercion or any misrepresentation.*

14. *That both the parties have agreed to abide by the terms and conditions of the aforesaid agreement. Both the parties have fairly undertake that they shall honestly, diligently and strictly adhere to all the terms mentioned herein and shall not do any act, deed or thing which may have the effect of defeating or negating the terms forthwith.*

15. That the contents of the aforesaid compromise/settlement has been read over and explained in detail to both the parties and they have fully understood the same and found the same as correct.

16. That it has been agreed between the parties that in case of necessity, both the parties shall be free to present the copy of the above compromise before any authority or court if the same is required to witness the execution or to settle any pending controversy between the parties".

12. Today, by way of an additional affidavit, petitioner-Sundershan agreed to pay an additional amount of Rs.5,00,000/- in addition to Rs.21,00,000/- by way of FDR in the name of his daughter - Lathika Gothwal along with FDR of Rs.21,00,000/-, for her welfare.

13. The learned Counsel for respondent No.2 has tendered an affidavit of respondent No.2 dated 11th January, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Bombay. The said affidavit is taken on record. In the said affidavit, she has given her no objection for quashing the aforesaid C.R registered at her behest against the applicants and petitioner - Sundershan, in view of amicable settlement.

14. Respondent No.2 is present in the Court. On being questioned, she reiterates what is stated by her in her affidavit. Learned Counsel for respondent No.2 has tendered a photostat copy of the Aadhar Card of respondent No.2 duly attested by respondent No.2. The same is taken on record. Learned Counsel for respondent No.2 has identified respondent No.2 and the learned A.P.P has also verified the original Aadhar Card of respondent No.2.

15. Considering the nature of the dispute, relations between the parties, affidavit of respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the 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 and the petition.

16. Application and petition are accordingly allowed and the F.I.R bearing C.R. No.232 of 2017, registered with Nerul Police Station, is quashed and set aside.

17. Rule is made absolute in the aforesaid terms. Petition and Application are disposed of accordingly.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]