

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1054 OF 2022**

1. Brijesh Shivpujan Singh	]	
2. Shivpujan Singh	]	
3. Usha Shivpujan Singh	]	
4. Nilesh Shivpujan Singh	]	Applicants
Vs.		
1. State of Maharashtra	]	
(Through the Office of the Public	]	
Prosecutor, Hon'ble Bombay High	]	
Court,)	]	
Mumbai - 400 001.	]	
2. The State of Maharashtra	]	
(Through Samta Nagar Police Station	]	
Kandivali (East), Mumbai - 400 101.	]	
3. Pallavi Brijesh Singh	]	Respondents
@ Pallavi Vashisht Singh	]	

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Mr. Dhiraj Singh, for Applicants.

Ms. P.P. Shinde, A.P.P, for Respondents No.1 and 2-State.

Ms. Shreya Tiwari a/w Ms. Dharini Nagda i/b Mr. Dinesh Tiwari,
for Respondent No.3.

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

DATE : 10th JANUARY, 2023.

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

1. Heard.
2. Rule.
3. Rule is made returnable forthwith, with the consent of the parties. Application is taken up for final hearing.
4. Learned A.P.P. waives notice on behalf of respondents No.1 and 2-State and Ms. Tiwari, learned Counsel waives notice on behalf of respondent No.3.
5. By this application under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr. P.C"), the applicants seek quashing of the First Information Report registered vide C.R. No.704 of 2021 with Samtanagar Police Station, Kandivali, Mumbai for the alleged offences punishable under sections 498-A, 406, 323, 504 and 506 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 under.

7. Applicant No.1 is the husband of respondent No.3, applicant No.2 is the father-in-law, applicant No.3 is the mother-in-law and applicant No.4 is the brother-in-law of respondent No.3 respectively. Applicant No.1 and respondent No.3 got married on 8th June, 2019 as per Hindu Vedic rites and rituals at Dhurmal Bajaj Bhavan, Opposite R.S.E.T. Campus, S.V. Road, Malad (West), Mumbai. The couple is issueless.

8. Post marriage, respondent No.3 came to cohabit with the applicant No.1 at Badlapur, comprising the in-laws. For some days, everything was going on smoothly. However, after some days, applicants started harassing and ill-treating respondent No.3. They were forcing her to demand money from her parents for paying installments of flat. In-laws of respondent No.3 used to threaten respondent No.3 to drive her from home. On 3rd August, 2019, applicants dropped respondent No.3 at Pushpa Park, Malad and asked her father to take her to her natal home. Since then, she is residing at her natal home.

9. As such, an F.I.R came to be lodged by respondent No.3 against the applicants on 5th October, 2021, as above.

10. Anticipatory Bail Application No.1843 of 2021 filed by the applicants came to be allowed by the Additional Sessions Judge, Borivali, Dindoshi, Mumbai vide an order dated 5th April, 2022.

11. Applicant No.1 has filed Marriage Petition No.1895 of 2021 on 16th November, 2021 before Civil Judge, Senior Division, Kalyan.

12. In the interregnum, the parties have decided to give quietus to the dispute. Accordingly, applicant No.1 and respondent No.3 have entered into Memorandum of Understanding (for short "M.O.U") on 22nd February, 2022. The said M.O.U is annexed with the application at Page No.20 to 26. For ready reference, relevant paragraph i.e paragraphs 3 and 4 of the said MOU are reproduced below;

"3. The parties hereto have amicably and mutually decided a settlement amount of Rs.9,54,000/- (Nine Lakh Fifty Four Thousand Rupees only) out of which of Rs.5,00,000/- (Rupees Five Lakhs Rupees only)

which shall be payable by the party of first part to the party of second part through demand draft/(s). The party of first party shall also return gold ornaments/jewelleries etc., to the party of second part. Rest of the amount shall be paid to the Advocate of the wife. This settlement amount shall be final in all the senses and shall include Maintenance, streedhan, alimony, gifts, marriage ceremonial expenses and others.

4. Party of Second Part agrees, assures and confirms that after the receipt of above stated settlement amount by demand draft, she will not raise any claim for maintenance, alimony and others as per the law for time being in force in future".

A photostat copy of the receipt evidencing payment of Rs.5,00,000/- is also annexed with the said M.O.U.

13. Mr. Tiwari, Advocate for respondent No.3 has also filed an Affidavit-cum-Undertaking dated 22nd February, 2022 duly notarized before the Notary by which he undertakes to hold an amount of Rs.4,54,000/- till the conclusion of quashing Criminal Application by the Hon'ble High Court. Photostat copies of the Aadhar Cards of the applicants are annexed to the application at pages No.33 to 36.

14. Affidavit of respondent No.3 dated 9th November, 2022 duly notarized before the Notary is annexed to the petition at pages No.39 to 48. A photostat copy of the Aadhar Card of the respondent No.3 is also annexed to the said affidavit. In the said affidavit, she has stated that she has filed the aforesaid F.I.R against the applicants due to anger, frustration and misunderstanding in the heat of moment. Now, they have resolved their dispute. In the said affidavit, she has given her no objection for quashing of the F.I.R registered against the applicants at her behest and the proceedings arising therefrom.

15. Learned Counsel appearing for respondent No.3 has tendered additional affidavit of respondent No.3 dated 7th January, 2023 duly affirmed before the Assistant Registrar, High Court, Appellate Side, Mumbai. To the said affidavit, copy of the order passed by the Family Court, Mumbai in Petition for divorce being Petition No.F-834 of 2022 is annexed, so also copy of pay order for Rs.4,54,000/- in favour of respondent No.3. In the said affidavit, she has stated that as per the settlement arrived at between the applicants and her, she has received a sum of Rs.5,00,000/- along with gold jewelries, articles, utensils etc at the time of filing of the divorce petition. She

further stated that a pay order in her favour for the balance amount i.e Rs.4,54,000/- is ready. Photostat copy of the said pay order is annexed with the affidavit. She has given her no objection for quashing of the aforesaid F.I.R.

16. Respondent No.3 is present in the Court. On being questioned, she reiterates what is stated by her in her additional affidavit. Learned Counsel appearing for respondent No.3 has identified respondent No.3. Learned A.P.P has verified original Aadhar Card of respondent No.3.

17. Considering the nature of the dispute, the amicable settlement between the parties, affidavits of respondent No.3 and having regard to the judicial pronouncements in the case of **Gian Singh Vs. State of Punjab and another¹** and **Narinder Singh and others Vs. State of Punjab and another²**, there is no impediment is allowing the application.

18. The application is accordingly allowed. The F.I.R bearing C.R. No.704 of 2021 registered with Samta Nagar Police Station,

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Kandivali, Mumbai for the alleged offences punishable under sections 498-A, 323, 406, 504 and 506 of the I.P.C as against the applicants, is quashed and set aside.

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

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]