

J\\Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1209 OF 2019**

- | | | |
|--|--------|------------|
| 1. Milind Mahadev Kesarkhane |] | |
| 2. Mahadev Laxman Kesarkhane |] | |
| 3. Suman Mahadev Kesarkhane |] | |
| 4. Samir Mahadev Kesarkhane @
Kashyap |]
] | |
| 5. Jaya @ Jayshree Deepak Lengare] | | |
| 6. Deepak Annasaheb Lengare |] | Applicants |

Vs.

- | | | |
|-----------------------------|---|-------------|
| 1. The State of Maharashtra |] | |
| 2. Pooja Milind Kesarkhane |] | Respondents |

.....

Mr. Ranjeet Patil, for Applicants.

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

Mr. Kuldeep U. Nikam, for Respondent No.2.

.....

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

DATE : 22nd February, 2023.

P.C.

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and the application is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1-State and Mr.Nikam, learned Counsel waives notice on behalf of the respondent No.2.
3. By this application, preferred under section 482 of the Code of Criminal Procedure, 1973 (for short “Cr. P.C”), the applicants seek quashing of the First Information Report (for short “F.I.R”), bearing C.R. No.219 of 2019 registered with the Bibwewadi Police Station, Pune, for the alleged offences punishable under sections 498-A, 406, 504, 506 r/w 34 of the Indian Penal Code (for short “I.P.C”) and consequently, the proceeding pending before the learned Judicial Magistrate First Class, Pune being R.C.C No.4650 of 2019. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. Applicant No.1, is the husband of the respondent No.2; applicant No.2, the father-in-law, applicant No.3, the mother-in-law; applicant No.4, the brother-in-law, applicant No.5, the maternal aunt of the applicant No.1 and applicant No.6, the husband of the applicant No.5, respectively. It appears that the applicant No.1 and the respondent No.2 got married on 16th November, 2016, after which, the respondent No.2 started residing in her matrimonial home. As according to the respondent No.2, she was allegedly ill-treated and harassed by the applicants, she lodged the aforesaid F.I.R, as against the applicants alleging the aforesaid offences. It is not in dispute that the applicants and the respondent No.2 are residing separately since 2018. Apart from the aforesaid F.I.R, the respondent No.2 had filed a Divorce Petition bearing Petition A-1669 of 2021 in the Family Court at Pune; a private complaint bearing Criminal Miscellaneous Petition No.73 of 2021 in the Court of Chief Judicial Magistrate, Sangli and a Civil Writ Petition No.219 of 2019 in this Court, seeking maintenance.

5. In the interregnum, during the pendency of the aforesaid proceedings, the parties amicably settled their dispute and decided to put a quietus to the same. Accordingly the parties i.e applicant

No.1 and the respondent No.2 entered into consent terms. The said consent terms executed between the applicant No.1 and the respondent No.2 are tendered before us. The said consent terms dated 22nd February, 2023 are duly signed by the applicant No.1, the respondent No.2 and their respective Advocates. To the said consent terms, is annexed a photo copy of the Demand Draft dated 21st February, 2023 for Rs.10,00,000/- payable by the applicant No.1 to the respondent No.2 as well as photo copies of the Aadhar Cards of the applicant No.1 and the respondent No.2, duly attested by them. The said consent terms are taken on record and marked 'X' for identification. As per the said consent terms, both the parties have decided to withdraw all the allegations made against each other. It is agreed, that the applicant No.1 will pay a sum of Rs.10,00,000/- to the respondent No.2 by way of permanent alimony. A demand draft of Rs.10,00,000/- has been handed over by the applicant No.1 to the respondent No.2. The respondent No.2 acknowledges receipt of the same. In view of the settlement and the consent terms, the respondent No.2 has no objection to the quashing of the aforesaid F.I.R/proceeding, initiated at her behest. It is also agreed, that the parties will seek divorce by mutual consent in the Family Court and will extend all co-operation for getting

divorce by mutual consent. Both parties have agreed to withdraw all proceedings filed against each other, in view of the amicable settlement between them. There are other terms, which both the parties have agreed to comply. Learned Counsel for the respondent No.2 has also tendered a consent affidavit of the respondent No.2 dated 22nd February, 2023, duly affirmed before the Assistant Registrar, High Court, Appellate side, Bombay. In the said affidavit, the respondent No.2 has given her no objection to the quashing of the aforesaid proceedings, in view of the amicable settlement between the parties.

6. Respondent No.2 is present in person. On being questioned, she reiterates what is stated by her in her affidavit. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned A.P.P has verified the original Aadhar Card of the respondent No.2.

7. Considering the nature of dispute, the amicable settlement between the parties, the consent terms executed between them, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case 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.

8. The application is accordingly allowed and the FIR bearing C.R. No.219 of 2019 registered with the Bibwewadi Police Station, Pune and consequently, the proceeding pending before the Judicial Magistrate First Class, Pune being R.C.C. No.4650 of 2019, are quashed and set aside.

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

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466