

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 4275 OF 2022

Tushar Bhimrao Kochale

...Petitioner

Versus

1. The State of Maharashtra
2. Pooja Tushar Kochale

...Respondents

Mr. Altaf Khan a/w Mr. Ajay Jankar for the Petitioner.

Mr. J.P.Yagnik, A.P.P for the Respondent-State.

Ms. T.V.Chavan for the Respondent No.2.

*CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.*
DATE : 19th JANUARY, 2023

P.C. :

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives

notice on behalf of the respondent No.1–State. Ms. T.V.Chavan waives notice on behalf of the respondent No.2.

3. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioner seeks quashing of the FIR bearing C.R. No. 270 of 2021 registered with the Vinoba Bhave Nagar Police Station, Kurla (West), Mumbai, for the alleged offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner is the husband of the respondent No.2. According to the respondent No.2, she got married with the petitioner on 10th May, 2018, after which, she started residing in her matrimonial house. As there was marital discord, the respondent No.2 filed the aforesaid C.R. as against the petitioner and others alleging the aforesaid offences. It appears that after

investigation, chargesheet has also been filed in the said case.

5. Apart from the aforesaid proceedings, it appears that the respondent No.2 had filed a petition in the Family Court, Bandra being petition No. C-05-2022.

6. During the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put quietus to the same and accordingly filed Consent Terms. The said Consent Terms dated **4th October, 2022** filed in the Family Court, Bandra, is annexed at page 17 of the petition. In the said Consent Terms, the terms and conditions have been stipulated, which both parties have agreed to comply with. By way of one time settlement, the petitioner has agreed to pay the respondent No.2, a sum of Rs.10,00,000/- by way of full and final settlement. Learned Counsel for the petitioner has informed that the said amount has already been deposited in the Family Court, Bandra and that the petitioner has no objection for withdrawing the said amount by the respondent No.2, after a Decree of Divorce is

passed. It also appears that the couple has a child and that in the Consent Terms, the petitioner has undertaken to pay education related expenses i.e. school fees, tuition fees directly to the authorities. With respect to the child, there are other conditions which have also been spelt out in the Consent Terms and both parties have undertaken to abide by the same.

7. Learned Counsel for the respondent No.2 has already filed an affidavit of the respondent No.2, giving her no objection for quashing of the said case initiated at her behest. Since the said affidavit has not been placed before this Court by the Registry, learned Counsel for the respondent No.2 has tendered a photocopy of the affidavit of respondent No.2. The said affidavit dated 8th December, 2022 is taken on record. To the said affidavit, is annexed a photocopy of the Aadhar Card of the respondent No.2. In the said affidavit, the respondent No.2 has stated that she has amicably settled the dispute and accordingly, Consent Terms are filed in the Family Court, Bandra and as such, she has no objection for quashing of the FIR registered at

her behest against all the accused.

8. Today, an additional affidavit has been tendered by the learned Counsel for the respondent No.2. The said additional affidavit is dated 19th January, 2023, duly affirmed before the Assistant Registrar, High Court. In the said additional affidavit, the respondent No.3 has specifically in para 5 stated that she has no objection for quashing of the FIR not only against the petitioner, but also against Bhimrao Kochale, Shakuntala Kochale and Harshada Thorave, the other co-accused in the said FIR. The said additional affidavit is also taken on record.

9. The respondent No.2 is present in person. On questioning, she re-iterates what is stated by her in her affidavit and additional affidavit. The respondent No.2 has been identified by her Counsel. The original Aadhar Card of the respondent No.2 is verified by the learned APP.

10. Considering the nature of dispute, the amicable settlement

between the parties, the affidavit and the additional affidavit of the respondent No.2 and the judicial pronouncements of the Apex Court in *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 petition.

11. The petition is accordingly allowed and the FIR bearing C.R. No. 270 of 2021 registered with the Vinoba Bhave Nagar Police Station, Kurla (West), Mumbai, and consequently, the chargesheet filed in the Court of the learned Metropolitan Magistrate, 59th Court, Kurla, Mumbai, are quashed and set-aside.

12. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

13. Learned Counsel for the respondent No.2 to file her Vakalatnama, if not filed, on behalf of the said respondent, in the Registry, within two weeks of uploading of this order.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.