

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 149 of 2023

Mr. Piyush Subhas Jain and Ors. ...Petitioners

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Mehul Thakker, Advocate for Petitioner.

Ms. Karishma Shirke, Advocate for Respondent No.2.

Mr. S.S. Hulke, APP for Respondent – State.

**CORAM : A. S. GADKARI AND
PRAKASH D. NAIK, JJ.**

DATE : 23rd MARCH, 2023.

PER COURT:-

. Rule. Rule made returnable forthwith.

1. The Petitioners are seeking quashing of First Information Report (for short 'FIR') registered with Kapurbawadi Police Station, Dist. Thane on 12th July, 2022 at the instance of Respondent No.2 for offences under Sections 498-A, 377, 406, 323, 504 and 34 of Indian Penal Code (for short 'IPC').

2. The marriage between Petitioner No.1 and Respondent No.2 was solemnized on 15th February, 2015. The Petitioner Nos. 2 to 6 are relatives of Petitioner No.1. The Respondent No.2 has alleged that the accused had illtreated her causing physical and

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mental cruelty and that her Streedhan as well as ornaments belonging to her were retained and misappropriated by the accused.

3. The Petitioner No.1 filed the Petition for divorce before Family Court at Ratlam, Madhya Pradesh. *Ex parte* divorce decree was passed by the Family Court at Ratlam, Madhya Pradesh on 7th May, 2022 and the marriage between Petitioner No.1 and Respondent No.2 was dissolved.

4. Memorandum of understanding was executed between the Petitioner No.1 and Respondent No.2. The MOU dated 24th November, 2022 contains several terms of settlement which includes the consent of Respondent No.2 for quashing the FIR registered with Kapurbawadi Police Station, Dist. Thane vide C.R. No.238 of 2022 which has been impugned in this Petition.

5. Joint affidavit has been filed by the Petitioner No.1 and Respondent No.2 on 23rd March, 2023 stating that the dispute is resolved and although divorce decree is passed *ex-parte*, the parties are giving second chance to reconcile for marriage and for that they will appoint marriage counselor. Apart from other terms agreed between the parties, the affidavit also mentions that in view of amicable settlement between the parties, the Respondent No.2

withdraws the allegations made in the FIR registered vide C.R. No.238 of 2022 and accordingly agree and give her consent to quash the said FIR and charge-sheet filed in the case. The Respondent No.2 has no objection if this Court allows the prayers of the Petitioners sought in this Petition and quash FIR No.238 of 2022 and proceedings in R.C.C. No. 497 of 2023 pending before the Court of 3rd Joint Civil Judge, Junior Division, J.M.F.C., Thane. While affirming the affidavit both the parties are identified by their respective Advocates.

6. The Petitioner No.1 and Respondent No.2 are present in the Court. The Respondent No.2 has confirmed the averments in the MOU and the affidavit through her Advocate. The learned Advocate representing both the sides submitted that in view of settlement between the parties the impugned proceedings may be quashed.

7. In view of MOU dated 24th November, 2022 and the joint affidavit of Petitioner No.1 and Respondent No.2 dated 23rd March, 2022 and considering the fact that the parties have arrived at the settlement and complainant has no objection quashing the proceedings against Petitioners, this Petition deserves to be allowed.

ORDER

- i. The proceedings in R.C.C. No. 497 of 2023 pending before Court of J.M.F.C., Thane are quashed and set aside.
- ii. Rule is made absolute in terms of prayer Clause-b.

[PRAKASH D. NAIK, J.]

[A. S. GADKARI, J.]