

Digitally signed
by KANCHAN
PRASHANT
DHURI
Date:
2024.01.18
14:44:49
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 3813 OF 2023

Surekha Rohit Raut alias Surekha

Hanumant Kale and others

... Petitioners

Versus

State of Maharashtra and another

... Respondents

.....

Mr. Akshay Kapadia for the Petitioners.

Ms. M.M. Deshmukh, APP for the State.

Mr. Sachin Bhavar instructed by Mr. H.B. Kamble for Respondent No.2.

Mr. Rohit Raut, Respondent No.2, present.

.....

**CORAM : SMT. ANUJA PRABHUDESSAI &
N.R. BORKAR, JJ.**

DATED : 17 JANUARY 2024

P.C. :-

1. Learned Counsel for the Petitioners seeks leave to amend prayer clause so as to incorporate the criminal case number.

Leave granted. Amendment to be carried out forthwith.

2. By this Petition filed under Article 226 of the Constitution of India, the Petitioners seek to quash First Information Report No.255 of 2022 as well as Criminal Case No.947 of 2022 pending on the file of Judicial Magistrate, F.C., Madha, District – Solapur for offences under Sections 385, 504, 506 r/w. 34 of Indian

Penal Code.

3. The aforesaid crime was registered pursuant to the F.I.R. lodged by Respondent No.2. The F.I.R. and the other material on record indicate that Respondent No.2 was married to Petitioner No.1. The matrimonial dispute between Respondent No.2 and the Petitioner No.1 led to filing of divorce proceedings as well as other criminal proceedings. The subject F.I.R. and the criminal proceedings essentially arises from the matrimonial dispute.

4. Learned Counsel for the Petitioners and Respondent No.2 state that Petitioner No.1 and Respondent No.2 have settled the matrimonial dispute and that they have already filed consent terms in Marriage Petition filed before the Civil Judge, Senior Division at Kalyan and that copy of the consent terms is placed on record at Exhibit R-1 (page 77). Respondent No.2 has also filed his Affidavit stating that the matter has been amicably settled and that he does not wish to proceed with the criminal proceedings arising from F.I.R. No.255 of 2022.

5. Respondent No.2 has appeared by virtual mode.

Learned Counsel for Respondent No.2 has identified the Respondent No.2. Respondent No.2 has confirmed the contents of the Affidavit. He has also reiterated that he does not want to proceed with the criminal proceedings arising from F.I.R. No. 255 of 2022.

6. In our considered view, the settlement is voluntary and genuine. Since the crime emanates from matrimonial dispute, which has been settled amicably, continuance of criminal proceedings will be an abuse of process of law. Hence, this is a fit case to exercise powers under Article 226 of the Constitution of India and to quash the proceedings to secure the ends of justice. Hence, the following order :

- (i) Writ Petition is allowed.
- (ii) F.I.R. No. 255 of 2022 registered at Kurduwadi Police Station as well as Criminal Case No.947 of 2022 pending on the file of Judicial Magistrate, F.C., Madha, District – Solapur stand quashed and set aside.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)