

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

CRIMINAL WRIT PETITION NO.4184 OF 2023

Irwin Satish Marwah and Ors.

...Petitioners

Versus

The State of Maharashtra and
Anr.

...Respondents

....

Ms Siddh Vidya with Ms Shalaka Karkar, Ms Divya Maniar i/b. M/s. Siddh Vidya and Associates for the Petitioners.

Ms Rutuja Ambekar, APP for Respondent No.1-State.

Mr. Rahul Tiwari i/b. Mr. Yogesh Tiwari for Respondent No.2.

Ms Poornima Irwin Marwah, present.

CORAM: SMT. ANUJA PRABHUDESSAI &

N.R. BORKAR, JJ.

DATED: 31st JANUARY, 2024.

P.C.:-

1. At the outset learned counsel for the Petitioners seeks leave to amend prayer clause (a), as to incorporate the number of criminal case arising from C.R. No.78 of 2019. Leave is granted. Amendment to be carried out forthwith.

2. This is a petition to quash FIR No.78 of 2019 registered at Vashi Police Station, District-Navi Mumbai, for the offences punishable under Sections 323, 406, 498-A, 504 and 506 r/w 34 of

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the IPC and R.C.C. No.1708 of 2019 arising therefrom and pending on the file of J.M.F.C., Vashi, Belapur.

3. The aforesaid crime was registered pursuant to the FIR lodged by Respondent No.2. The marriage of Respondent No.2 and Petitioner No.1 was solemnised on 12/04/2015. Respondent No.2 lodged the FIR on 22/02/2019 alleging that her husband and his relatives had subjected her to physical and mental cruelty.

4. Learned counsel for the Petitioners and Respondent No.2 state that the dispute has been amicably settled. It is further stated that the marriage of Petitioner No.1 and Respondent No.2 has been dissolved. Copy of the marriage petition filed under Section 13(b) of the Hindu Marriage Act, 1955, is placed on record. Respondent No.2 has also filed her affidavit stating that the marriage has been dissolved and that she does not wish to proceed with the criminal proceedings. Respondent No.2 is present before the Court and she has been identified by her Advocate.

5. A perusal of the consent terms reveals that the matter has been amicably settled and the marriage has been dissolved with

consent and an amount of Rs.12,00,000/- was agreed to be paid to Respondent No.2 as permanent alimony. Respondent No.2, who is present before the Court confirms the contents of the affidavit. She has also admitted having received an amount of Rs.12,00,000/- from Petitioner No.1. She has given no objection to quash the FIR and the criminal proceedings arising therefrom.

6. Since the crime is essentially emanating from the matrimonial dispute and that the parties have put an end to matrimonial dispute by entering into settlement, which in our considered view is voluntary and genuine, continuance of criminal proceedings will be an exercise in futility. Hence, this is a fit case to exercise extraordinary powers under Article 226 of the Constitution of India and quash the FIR and criminal proceedings.

7. Under the circumstances, the petition is allowed. FIR No.78 of 2019 registered at Vashi Police Station, District-Navi Mumbai and R.C.C. No.1708 of 2019 arising therefrom and pending on the file of J.M.F.C., Vashi, Belapur, are hereby quashed

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)