

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

WRIT PETITION NO. 2970 OF 2023

Mr. Sufiyan Mohamad Irfan Khan
& Ors.

..Petitioners

v/s.

The State of Maharashtra .

..Respondents

Ms. Amrita Nair for the Petitioner present through V.C.

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

Mr. R.K.Agrawal for the Respondent No.2.

Mr. Rais Patel, father of Respondent No.2 present in Court.

Petitioner and Respondent No.2 present through V.C.

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

DATED : 10th JANUARY, 2024.

P.C.

1. Learned Counsel Mr. R.K. Agrawal, undertakes to file Vakalatnama on behalf of the Respondent No.2. He states that the Respondent no.2 is presently at Dubai. He states that he will forward the Vakalatnama to the Respondent No.2. The Respondent No.2 who has appeared through virtual mode has agreed to sign and dispatch the vakalatnama in favour of her Counsel.

2. The petitioner seeks to quash Crime No. 48 of 2018 registered at Nehru Nagar Police Station, and Chargesheet No.

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3400460/PW/2018 arising from the said FIR, and pending before the Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai for the offences punishable under Section 498A, 504, 506, 323 r/w. 34 of the Indian Penal Code.

3. The aforesaid crime was registered pursuant to the FIR lodged by the Respondent No.2. The marriage of the Petitioner No.1 and the Respondent No.2 was solemnized on 24.09.2016. The Respondent No.2 lodged the FIR on 18.01.2018 alleging that her husband and his family members had subjected her to cruelty.

4. Learned Counsel for the Petitioner and the Respondent No.2 state that the parties have resolved the dispute amicably. They have entered into consent terms. Copy of the Consent Terms dated 5.7.2021 filed before the Metropolitan Magistrate is placed on record. A perusal of the consent terms indicate that both the parties have agreed to make an application for dissolution of the marriage and to withdraw the cases filed against each other. It is stated that the marriage has been dissolved. Copy of the Khulanama is placed on record, at page 57A. It is stated that pursuant to the said consent terms, Domestic Violence proceedings have been

withdrawn. Learned Counsel for the Respondent No.2 further states that the Petitioner No.1 has also withdrawn the Complaint No. SCC 1953 of 2018 filed against the Respondent No.2 and her parents and others.

5. The Respondent No.2 who has appeared by virtual mode is identified by her Counsel, as well as by her father Mr. Rais Patel, who is present before the Court. The Respondent No.2 confirms that she has received the amount as mentioned in the Consent Terms and that the matter is settled as per the consent terms filed before the Metropolitan Magistrate. She reiterates that she does not wish to proceed against the Petitioners and has no objection to quash the FIR as well as the criminal proceedings. Learned Counsel for the Respondent No.2 has also placed on record e-mail sent by the Respondent No.2 conveying her no objection to quash the FIR.

6. Having gone through the records, we are of the considered view that the Petitioner No.1 and the Respondent No.2 have settled their matrimonial dispute amicably. The settlement is voluntary and genuine. In view of the settlement of the dispute, and considering the principles laid down by the Apex Court in **B.S.**

Joshi & Ors. vs. State of Haryana. (2003) 4 SCC 675, Jitendra Raghuvanshi & Ors. vs. Babita Raghuvanshi & Ors (2013) 4 SCC 58, and Rangappa Javoor vs. State of karnataka 2023 Livelaw SC 74, in our considered view continuance of the proceedings would be a futile exercise. Hence, this is a fit case to exercise power under Article 226 of the Constitution, and to quash the FIR as well as the Criminal proceedings.

7. Hence, the petition is allowed in terms of prayer clause (a).

. FIR No. 48 of 2018 registered at Nehru Nagar Police Station Station and the Chargesheet No.3400460/PW/2018 dt.2nd May, 2018 pending on the file of Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai, stands quashed.

(N.R.BORKAR, J.)

(ANUJA PRABHUDESSAI, J.)