

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

CRIMINAL WRIT PETITION NO.4160 OF 2022

Shehbaz Khakhu and Anr.

...Petitioners

Versus

The State of Maharashtra and Anr.

...Respondents

....

Mr. Niranjan Mundargi with Ms Keral Mehta for the Petitioners i/b. Mr. Anish Desai.

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

Dr. Yusuf Iqbal Yusuf with Ms Shaista Pathan, Mr. Zain Javed Shroff, Ms Vasudha Gupta i/b. Mr. Zain Javed Shroff for Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI &

N.R. BORKAR, JJ.

DATED: 6th FEBRUARY, 2024.

P.C.:-

1. Learned counsel for the Petitioner states that during the pendency of this petition, charge-sheet has been filed. He therefore seeks leave to amend prayer clauses as to incorporate number of Case being Criminal Case No.PW/4600058/PW/2023 pending before 46th ACMM, Sewree. Leave is granted. Amendment to be carried out forthwith.

2. The Petitioner seeks to quash FIR No.760 of 2021 registered with Agripada Police Station, District-Mumbai, for the offences punishable under Sections 307, 498-A, 506(II), 509 r/w 34 of the IPC and Criminal

Case No.PW/4600058/PW/2023 arising therefrom and pending before 46th ACMM, Sewree.

3. The aforesaid crime was registered pursuant to the FIR lodged by Respondent No.2, wife of Petitioner No.1. The marriage of Petitioner No.1 and Respondent No.2 was solemnised on 17/08/2007. They have two children from the said wedlock. Respondent No.2 lodged the FIR on 02/12/2021 alleging that her husband and his family members had subjected her to physical and mental cruelty. It is also alleged that Petitioner No.1 had tried to strangle her and thereby attempted to cause her death. On the basis of the said allegations aforesaid crime came to be registered.

4. Learned counsel for the Petitioner and Respondent No.2 state that the parties have settled the dispute amicably. They have placed on record copy of the consent terms filed in C.C. No.44 of 2022 as well as C.C. No.4600096 of 2021 before the Metropolitan Magistrate, Mazgaon.

5. Learned counsel for the Petitioner and Respondent No.2 state that pursuant to the settlement arrived between the parties the marriage has been dissolved and Respondent No.2 has received an amount of Rs.1,75,00,000/- towards permanent alimony. They have placed on

record affidavit of Respondent No.2 giving her no objection to quash the proceedings in view of the settlement. Respondent No.2 is present before the Court. She has been identified by her Advocate. Respondent No.2 confirms the contents of the affidavit and further stated that she has received the amount of Rs.1,75,00,000/- towards full and final settlement. She has given no objection to quash the FIR.

6. The FIR does not disclose the essential ingredient of Section 307 of the IPC. The crime essentially emanates from the matrimonial dispute. The parties have settled the dispute and in our view the settlement is genuine and voluntary. Continuance of criminal proceedings will be an exercise in futility. Hence, this is a fit case to exercise extraordinary jurisdiction to secure the ends of justice.

7. Hence, the petition is allowed. The FIR No.760 of 2021 registered with Agripada Police Station, District-Mumbai and Criminal Case No.PW/4600058/PW/2023 arising therefrom and pending before 46th ACMM, Sewree, stand quashed.

(N.R. BORKAR, J.)

(SMT. ANUJA PRABHUDESSAI, J.)