

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

CRIMINAL WRIT PETITION NO. 368 OF 2024

Gaurav Vijay Kharote & Ors.

.....Petitioners

Versus

The State of Maharashtra & Anr.

.....Respondents

Mr. Sandeep R. Waghmare, Advocate for the Petitioners.

Smt. Madhavi H. Mhatre, A.P.P. for the Respondent-State.

Mr. Vivekanand V. Krishnan a/w Ms. Chaitali Bhogle & Mr. Rishab Tiwari, Advocate for Respondent No. 2.

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.**

DATE : 24th OCTOBER 2024.

P.C.:-

1. This is a Petition for quashing of the F.I.R. lodged vide C.R. No. 108 of 2022 dated 12th April 2022 registered with Yeola City Police Station, Taluka-Yeola, District-Nashik for the offence punishable under Sections 498-A, 406, 323, 504 & 506 read with 34 of the Indian Penal Code, 1860. It has resulted in filing of the chargesheet and the case is pending before the learned Judicial Magistrate First Class, Yeola, Nashik vide R.C.C. No. 9 of 2023. In the present Petition, a prayer is also made for quashing of those proceedings.

2. Heard Mr. Sandeep R. Waghmare, learned counsel for the Petitioners, Smt. Madhavi H. Mhatre, learned A.P.P representing the State and Mr. Vivekanand V. Krishnan, learned counsel for the Respondent No. 2.
3. The F.I.R. is lodged by the Respondent No. 2 herein. The Petitioners are practically all the relatives of husband of Respondent No. 2. Petitioner No. 1 is the husband; Petitioner No. 2 is his mother; Petitioner No. 3 is his sister; Petitioner No. 4 is his married sister and all other Petitioners are the uncles and aunts of the Petitioner No. 1. Except the husband, his mother and an unmarried sister, all of them are residing at different places. Some of them are residing in a different district altogether and yet all of them are made accused in this case.
4. The allegations in the F.I.R. are that the Respondent No. 2 got married with Petitioner No. 1 on 4th February 2020. The Respondent No. 2's father paid Rs. 7,77,000/- for the expenses of marriage. She was given stridhan by both the sides. The F.I.R. goes on to mention that she started residing in her matrimonial house. The husband, his mother and both the sisters were residing together. They started ill-treating her.

There were allegations that she was harassed for their demand. The F.I.R. mentions some instances where she was physically harassed. On one occasion, she went to her parent's house since she was not well, but then the Petitioner No. 1 did not go to bring her back to the matrimonial house. After great efforts, the Petitioner No. 1 took her back to their matrimonial house, but even thereafter the ill-treatment continued. There is one general statement against all the Petitioners that on one occasion, when all of them had gathered together in her matrimonial house, they abused the Respondent No. 2 and told her to bring Rs. 10,00,000/- from her father otherwise they would not allow her to stay in her matrimonial house. Ultimately she lodged the impugned F.I.R. The investigation was carried out. The chargesheet includes the statements of her mother, uncle and aunt. All of them have supported her allegations in the F.I.R.

5. The matter is now settled between the parties and the Respondent No. 2 has filed her Consent Affidavit dated 21st September 2024. She has stated in her Affidavit that divorce by mutual consent was granted by the learned Civil Judge, Senior

Division, Malegaon on 14th December 2022 in Hindu Marriage Application No. 488 of 2023. She has stated therein that all the cases are resolved and withdrawn between them and only this particular criminal case is pending. She has specifically given her no objection for allowing this Petition for quashing of the impugned F.I.R. and the consequent chargesheet.

6. Respondent No. 2 is present in the Court. She reiterates whatever is stated in the Affidavit. She is identified by her learned counsel.
7. Considering that the matter is settled between the parties, there is a divorce by mutual consent and the Respondent No. 2 had given her no objection for quashing of the crime in question, we are inclined to allow this Petition.
8. Before parting with this order, we must mention a few disturbing features. *Firstly*, the F.I.R. is not recorded properly. It is just a copy-paste job of the Informant's Application made before the Women Redressal Committee, Adgaon, Nashik (Rural). It is expected that the Police Officer should have recorded her separate statement clearly in her own words. *Secondly*, there are general and omnibus allegations against

most of the Petitioners and in particular against the uncles and aunts of Petitioner No. 1, who were residing at distant places. This appears to be a clear case of over implication and inspite of that all of them had to obtain anticipatory bail and all of them are chargesheeted. This appears to be the harassment *prima-facie*, however since the matter is settled between the parties, no further steps need to be taken by either of the parties. However it is expected that the Investigating Officers in such cases exercise restrained discretion in implicating the relatives, who are not really concerned with the main dispute between the husband and wife.

9. With this expectation, we are passing the following order :-

ORDER

The F.I.R. lodged vide C.R. No. 108 of 2022 dated 12th April 2022 registered with Yeola City Police Station, Taluka-Yeola, District-Nashik and the consequent proceedings resulting in R.C.C. No. 9 of 2023 pending on the file of learned Judicial Magistrate First Class, Yeola, Nashik, are quashed and set aside.

10. The Petition is disposed of accordingly.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)

GITALAXMI
KRISHNA
KOTAWADEKAR

Digitally signed by
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Date: 2024.10.24
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