

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.4513 OF 2024

Bhavin Jagdish Dharani and Ors.Petitioner
Vs.
The State of Maharashtra & Anr.Respondents

Mr. Anil M. Dubey, with Adv. Veenu M. Dubey, for the Petitioner.
Mr. Vinod Chate, APP for Respondent No.1-State.
Mr. K.K. Holambe Patil, with Mr. Vishal G. Shirsat, for Respondent No.2.

**CORAM : SARANG V. KOTWAL AND
DR. NEELA GOKHALE, JJ.
DATE : 13th DECEMBER 2024.**

PC:-

- 1) This is a Writ Petition for quashing of the FIR registered vide C.R.No.538 of 2017 at Powai Police Station, Mumbai on 12th November 2017 as well as the consequent charge-sheet and the criminal case bearing No. PW/1225/2018 pending before the 66th Court of Judicial Magistrate First Class at Andheri, Mumbai.
- 2) Heard Mr. Anil Dubey, learned counsel for the Petitioners, Mr. Vinod Chate learned APP for Respondent-State and Mr. Holambe Patil, for Respondent No.2.

3) The FIR in this case is lodged by the Respondent No.2 ('Informant'). She has stated that she is a highly educated lady and she has done Ph.D. She is working as a financial advisor. The Petitioner No.1 is an eye surgeon. The Petitioner Nos.2 and 3 are his parents. In the year 2010, the Informant's name was entered in a matrimonial site. They got the proposal of the Petitioner No.1. After 2-3 meetings, they decided to get married. The marriage took place on 14th July 2013. The Informant's father spent around Rs.15 lakhs in the marriage and gave gold ornaments as '*Stridhan*' to the Informant. The Petitioners were not happy with the money spent by the Informant's father on the marriage and started ill-treating her. There are allegations that they had difficulties in their relations. It is alleged that the Petitioners asked her to get Rs.50 Lakhs for a clinic, which was to be started by the Petitioner No.1. It is alleged that the Petitioner No.2 used to wear indecent clothes. There used to be frequent quarrels in the house. The Informant delivered a son on 24th July 2017 but things did not improve and the ill-treatment continued. Therefore, the Informant lodged the present FIR.

4) Investigation was conducted, charge-sheet was filed and in fact, the trial has already started. The Respondent No.2 was examined

before the trial Court. Her examination-in-chief is still in progress. Her initial deposition is almost similar to her allegations in the FIR. Besides First Informant's statement, there is a statement of her father, which supports her case.

5) After all this, the parties have settled the matter. The Respondent No.2 has filed an Affidavit dated 21st October 2024 wherein she has specifically mentioned that she has received certain amount and she is admitting the contents of the Consent Terms dated 20th September 2024 filed before the Family Court at Bandra, Mumbai. In paragraph 5 of the Affidavit, she has mentioned her specific no objection for quashing of the criminal proceeding.

The Informant is present in the Court and is identified by her counsel. She reiterated the contents of the Affidavit before the Court and again specifically stated that she has no objection for quashing of the criminal proceedings.

6) We considered this situation. The dispute is purely private between the parties and therefore, ordinarily we would not be hesitant at all to quash this proceeding. However, since the recording of the evidence has started, we now have to consider whether at this stage we can exercise our jurisdiction for allowing quashing of this

proceeding. In that context, reference can be made to the observations of the Hon'ble Supreme Court in ***Kapil Gupta v. State (NCT of Delhi) and Anr.***¹. In this context, paragraphs 12 and 13 of the said judgment are important, which are as under:

“12. It can thus be seen that this Court has clearly held that though the Court should be slow in quashing the proceedings wherein heinous and serious offences are involved, the High Court is not foreclosed from examining as to whether there exists material for incorporation of such an offence or as to whether there is sufficient evidence which if proved would lead to proving the charge for the offence charged with. The Court has also to take into consideration as to whether the settlement between the parties is going to result into harmony between them which may improve their mutual relationship.

13. The Court has further held that it is also relevant to consider as to what is the stage of the proceedings. It has been observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings. However, if such an application is made at an initial stage before commencement of trial, the said factor will weigh with the court in exercising its power.”

¹ 2022 (15) SCC 44

7) In that particular case, the Hon'ble Supreme Court considered the possibility of settlement in serious crimes. In paragraph 13, it was clearly observed that if an application is made at a belated stage wherein the evidence has been led and the matter is at the stage of arguments or judgment, the Court should be slow to exercise the power to quash the proceedings if the parties had arrived at settlement. Thus, it can be said that the prime consideration would be whether continuation of the proceedings would have some meaning or it would be an abuse of process of law and whether permitting settlement would be in interest of both the parties.

8) In the present case, the Petitioner Nos. 2 and 3 are senior citizens. Petitioner No.2 is 76 years old and the Petitioner No.3 is 71 years old. The Respondent No.2/Informant is satisfied with the settlement and wants to live her separate life with her son.

9) In this view of the matter, it would be in the interest of all the parties concerned if the settlement is accepted and the proceedings are quashed. Therefore, in this particular case, we are exercising our power under Article 226 of the Constitution of India and under Section 528 of the Code of Bharatiya Nagarika Suraksha

Sanhita (BNSS), 2023. Hence, the following order:

ORDER

(i) FIR registered vide C.R.No.538 of 2017 at Powai Police Station, Mumbai on 12th November 2017 resulting in the criminal case bearing No. PW/1225/2018 pending before the 66th Court of Judicial Magistrate First Class at Andheri, Mumbai are quashed and set aside.

(ii) Since this settlement was arrived at a belated stage at the stage of recording evidence, we are inclined to impose some cost on the Petitioners. The Petitioners shall pay a cost of Rs.20,000/- to the Central Police Welfare Fund within a period of four weeks from today. Details of the bank account for payment of cost are as under :-

Bank Name :- Axis Bank Limited.

Branch Name :- Worli, Mumbai (M.H.),

Mumbai-400 025

Account Name :- Central Police Welfare Fund

Account Number :- 914010029005759

IFSC Code :- UTIB0000060

(iii) If such cost is paid and acknowledgment is shown in the Registry then, there shall be no further reference to the Court but if the cost is not paid and the acknowledgment is not

shown then, the Office shall place this matter for further consideration on 14th February 2025.

10) The Petition is allowed and disposed of.

(DR. NEELA GOKHALE, J.)

(SARANG V. KOTWAL, J.)

Digitally
signed by
SHAMBHAVI
NILESH
SHIVGAN
Date:
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