

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3409 OF 2024

Ashok Shrirang Mane and Ors.

...Petitioners

Versus

The State of Maharashtra and Anr.

...Respondents

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Mr.Ramiz Shaikh a/w Mr.Rishi Bindra, Mr.Sameer Khan i/b.
Mr.Ramiz Shaikh – Advocates for Petitioners.

Smt.M.H.Mhatre – APP for Respondent No.1 – State.

Mr.Vaibhav R. Gaikwad – Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL &
S.M.MODAK, JJ.

DATE : 10th MARCH 2025

PC. :

1. This is a Petition for quashing of the C.R. No.185 of 2024 dated 15th May 2024 registered at Vaduj Police Station under Sections 420, 406, 354, 506 read with 34 of the Indian Penal Code, 1860 (“**IPC**”).

During pendency of this Petition, the charge-sheet is also filed. Therefore, a prayer is made for quashing of the entire proceedings including the charge-sheet. Leave to amend

is granted to the learned counsel for the Petitioners to carry out
Satish Sangar

the amendment in the prayer for quashing of the charge-sheet and the further proceedings. Amendment be carried out forthwith.

2. We have perused the copy of the charge-sheet and we have heard the parties. Copy of the charge-sheet is taken on record.

3. The main allegations are made by the Respondent No.2 in her F.I.R. The other statements in the charge-sheet are of the parents and other acquaintances. But the main allegations are contained in the F.I.R. itself. The Respondent No.2 was married to the son of the Petitioner Nos.1 and 2. The Petitioner No.3 was the brother of the Respondent No.2's husband – Akash. She has stated in her F.I.R. that she got married with Akash on 26th March 2023.

The main crux of the allegations in the F.I.R. that the Respondent No.2's husband was physically incapable of consummating their marriage. According to her, all the Petitioners knew about this fact and they had concealed this fact from the Respondent No.2. She was misled into marrying her husband. There are certain other allegations against the father-in-law and the brother-in-law about making unwelcome

advances towards the Respondent No.2.

4. Learned counsel for the Petitioners submitted, that the Respondent No.2 and Akash obtained divorce by mutual consent in Hindu Matrimonial Application No.241 of 2023 preferred before the Civil Judge Senior Division Vaduj. The divorce by mutual consent was granted vide the order dated 23rd April 2024. After that, within one month, the present F.I.R. was lodged. He has submitted, that the Respondent No.2 made no grievance whatsoever in those proceedings for divorce by mutual consent. She had not filed any Petition for declaring her marriage to be void because of concealment of fact or for any other similar purpose.

He submitted that continuation of the criminal proceedings after obtaining divorce by mutual consent is nothing but an abuse of the process of law. According to him, there are hardly any specific allegations against any of the Petitioners.

5. Learned counsel invited our attention to the opinion expressed by the Medical Officer, District Hospital – Satara. It was mentioned in the medical certificate that as per external examination of the genital, there is no evidence of

impotency. Learned counsel, therefore, submitted that the allegations in the F.I.R. are false as is demonstrated from the charge-sheet itself.

6. Learned counsel for the Respondent No.2 opposed these submissions but could not justify the filing of the F.I.R. after the decree of divorce by mutual consent was passed. The arguable points are raised. The Petitioners have also made out a case for grant of interim relief. Hence, following order:-

O R D E R

- (i) Rule.
- (ii) Till this Writ Petition is finally decided, the trial Court shall not proceed against the Petitioners in connection with the present subject matter.

(S.M.MODAK, J.)

(SARANG V. KOTWAL, J.)