

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

CRIMINAL WRIT PETITION NO.5680 OF 2024

Salman Naushad Shaikh
and another

.....Petitioners

Versus

Kausar Salman Shaikh
and another

.....Respondents

Mr. Zeeshan Siddique, Advocate for the Petitioners.

Mr. Tausif Shaikh, Advocate for the Respondent No.1.

Mr. Y.M. Nakhwa, APP for the Respondent No.2-State.

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

DATE : 28th JANUARY, 2025

P.C. :

1. This Petition is for quashing and setting aside the FIR registered vide C.R. No.1220/2024 dated 31.10.2024 under Sections 85, 64(1), 115(2), 351(2), 352, 356 of the Bharatiya Nyaya Sanhita read with Section 3 & 4 of the Dowry Prohibition Act and under Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 with Kondhwa police station District-Pune.

2. Learned APP states that the charge-sheet in this

case is already filed. Learned counsel for the parties are not aware of this fact.

3. Heard Mr. Zeeshan Siddique, learned counsel for the Petitioners, Mr. Tausif Shaikh, learned counsel for the Respondent No.1 and Mr. Y.M. Nakhwa, learned APP for the Respondent No.2-State.

4. This Petition was filed on the merits of the matter, but, now the parties have settled the matter and the parties are submitting that the matter be quashed by consent of both parties; and in particular with the consent of the first informant. The Petitioner No.2 is the wife of the Petitioner No.1. The Respondent No.1 is his second wife.

5. We have considered these submissions. The FIR is lodged by the first informant – Respondent No.1. She has stated that she was working as a Manager in a Real Estate Company. In 2017, she got acquainted with the Petitioner No.1, who was having his cake shop. They got acquainted. The Petitioner No.1 started sending messages and calling her.

Initially she resisted. The Petitioner No.1 repeatedly told her that he was well settled and that he wanted to marry her. He promised to keep her happy. In 2019, the Respondent No.1 got engaged to some other person, but the Petitioner No.1 approached that family and broke the engagement. It is her case that the Petitioner No.1 used to threaten and harass her. In February, 2021 he called the Respondent No.1 to a lodge and at that time they had their physical relations. She got pregnant, but, since the Petitioner put pressure she underwent abortion in a clinic. On 22.11.2021, the Petitioner No.1 showed his willingness to marry her. After that on 12.12.2021, they got married as per the rites of their religion. They started residing together. It is her case that after her marriage, she came to know that the Petitioner No.1 was already married with the Petitioner No.2 and they had two daughters. The Petitioner No.2 came to the Respondent No.1's house and abused and beat her. In the meantime, the Petitioner No.2 delivered a son. Since then the Petitioner No.1 completely changed. The Respondent No.1 had also become pregnant but

he did not take good care of the Respondent No.1. On 23.10.2022, the Petitioner No.1 and the Respondent No.1's son was born. There are allegations that the Petitioner No.1 used to beat her, used to demand money and used to suspect her character. He had taken away 13 tola gold belonging to her and then gave divorce orally. On these allegations, the FIR is lodged.

6. Now the parties have settled their dispute. The Respondent No.1 has filed her affidavit. It is mentioned in her affidavit that both of them have approached the Family Court at Pune vide Petition No.F-1829/2024 seeking divorce by mutual consent under Section 28 of the Special Marriage Act. There is some reference to payment of lifetime maintenance to the Respondent No.1 and towards maintenance of their child. Significantly in the last paragraph of the affidavit-in-reply tendered by the Respondent No.1, it is mentioned that during pendency of the matter the parties have amicably settled the disputes and the parties wish to withdraw the mutual divorce petition before the Family Court, Pune in view of their

amicable settlement. Therefore, though her affidavit-in-reply in the first part mentions about the divorce petition, maintenance amount etc. in the last paragraph she has stated that they had decided to withdraw that divorce proceedings. As far as the present subject matter is concerned, in paragraph-2, the Respondent No.1 has stated that she was not intending to proceed against the Petitioners in this matter and she did not have any grievance against the Petitioners. She has specifically stated that she has agreed to withdraw the proceedings of the first information report registered vide C.R. No.1220/2024 at Kondhwa police station, District-Pune.

7. The Respondent No.1 is present in the Court. She has categorically stated before the Court that the proceedings be quashed and she does not have any objection whatsoever. As far as the divorce proceedings are concerned, she is still undecided but she was very sure that she did not want to proceed with the criminal action, which is the subject matter of this Petition.

8. We have considered these submissions. The FIR

itself mentions that their physical relations were consensual. They got married and they are having one child. They were living together. The fact of marriage is not disputed. The Respondent No.1 has given her no objection to quash the proceedings. Therefore, in the interest of both the parties; and in particular in the interest of their child, we are inclined to allow this Petition.

9. Hence, the following order:

:: O R D E R ::

- i. The FIR being C.R. No.1220/2024 registered with Kondhwa Police Station, District Pune as well as the proceedings arising out of the same, are quashed and set aside.
- ii. The Petition is disposed of accordingly.

(S.M. MODAK, J.)

(SARANG V. KOTWAL, J.)

Deshmane (PS)