

KVM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 1100 OF 2024****Hariom Ramkrishna Mishra****..... Applicant****VERSUS****The State of Maharashtra & Ors.****..... Respondents**

...

Mr.S. R. Gupta a/w. Mr. H. S. Gupta for the Applicant.

Mr. A. A. Palkar, A.P.P. for the State.

Mr. Umesh Iyer a/w. Mr. Jitendra Jagtap for the Respondent No.3.

....

**CORAM : RAVINDRA V. GHUGE AND
RAJESH S. PATIL, JJ.****DATE : 23rd January, 2025****P.C. :**

1. A marital discord has reached the Police Station in the form of an FIR 0262, registered on 25th March, 2022 with the MIDC Police Station, Brihan Mumbai City.

2. The marriage of the Petitioner and the Complainant was solemnized on 20th November, 2021. It was alleged that the husband and the parents-in-law were demanding dowry. The husband claimed that if

a son is born, he would keep the wife in the marital home. He insisted for a son, when she became pregnant. He once came home with a sharp weapon and threatened the wife, who was three months pregnant, that he would kill her if a girl is born. He then beat her till she fell down on the floor and while kicking her, he stood on her pregnant stomach and started pounding her while stating that she should abort the child, if it is a girl child. When the Complainant refused to carry out a sex determination sonography test, he further beat her and said that if a girl is born, he would kill the child as well.

3. On one occasion, when the mother of the Complainant tried to intervene, he spat on her, besides abusing her in foul and filthy language. He abused the uncle of the Complainant as well. The Police had to be summoned by making a call on 100. Thereafter, she had to be taken to the hospital for treatment due to severe abdominal pains.

4. In the FIR No. 325 of 2022, registered against the Petitioner and his parents, the parties approached this Court in Writ Petition No. 1938 of 2023 and by consent, the said FIR was quashed vide order dated 7th October, 2024.

5. Insofar as the FIR No. 0262 of 2022, the Complainant is before the Court and has tendered an affidavit at page nos. 49 to 54, dated 29th August, 2024 stating therein that she does not desire to prosecute the said FIR. She has settled her dispute with the husband and has also parted ways by tendering consent terms dated 25th December, 2023 before the learned Family Court at Bandra in M.J.Petition No F-1123 of 2024. The Family Court is awaiting the order of this Court and after the FIR is quashed, the order granting divorce by mutual consent would be passed and the divorce decree would be issued.

6. In C.C.No.276/DV/2023, the learned Additional Chief Metropolitan Magistrate, 22nd Court, Andheri, Mumbai, has disposed off the said proceedings as withdrawn unconditionally, by consent, vide order dated 22nd April, 2024 passed below Ex.01.

7. Considering the above factors and in view of the law laid down by the Hon'ble Supreme Court in ***B.S.Joshi & Ors. Vs. State of Haryana & Anr., 2003 (4) SCC 675***, this Criminal Application is allowed by consent in terms of prayer clause (a), which reads thus :-

(a) That this Hon'ble Court be pleased to call for the records and proceedings of the said Criminal Case No.3416/PW/2022 pending before the Learned Judicial

Magistrate (First Class), 22nd Court, Andheri, Mumbai, registered, pursuant to the FIR/ C. R. No.262 of 2022 dated 25.3.2022, lodged with "M.I.D.C. Police Station, Mumbai" U/s.452, 323, 504, 506(2) of Indian Penal Code, by the Respondent No.03/First Informant, against the Applicant and after going through with the same, this Hon'ble Court be pleased to quash and set aside, the said Criminal Case No.3416/PW/2022 pending before the Learned Judicial Magistrate (First Class), 22nd Court, Andheri, Mumbai, registered, pursuant to the FIR/ C. R. No.262 of 2022 dated 25.3.2022, lodged with "M.I.D.C. Police Station, Mumbai" U/s.452, 323, 504, 506(2) of Indian Penal Code, by the Respondent No.03/ First Informant, against the Applicant.

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)