

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

CRIMINAL WRIT PETITION NO.4138 OF 2023

Stacy Fernandes & Anr. ... Petitioners
Vs.
The State of Maharashtra & Anr. ... Respondents

**WITH
CRIMINAL WRIT PETITION NO.4204 OF 2025**

Mathew Montes Fernandes & Anr. ... Petitioners
Vs.
The State of Maharashtra & Anr. ... Respondents

**WITH
CRIMINAL WRIT PETITION NO.4208 OF 2025**

Ashley Anthony Fernandes ... Petitioner
Vs.
The State of Maharashtra & Anr. ... Respondents

Mr. Brian D'Lima for the Petitioner in WP No.4208/2023.
Mr. Ninad Bhabal i/b Mr. Suraj Dessai Almeida for the Respondent No.2 in
WP No.4208/2023.
Ms. Dhanalaxmi Krishnaiyer APP for the Respondent-State.

**CORAM : SARANG V. KOTWAL &
SHYAM C. CHANDAK, JJ.**

DATED : 24th SEPTEMBER, 2025

P.C. :-

1) All these Writ Petitions are decided by the common order because they arise of the same subject matter i.e. the same FIR and the same charge-sheet. Criminal Writ Petition No.4208 of 2025 is filed by the

husband of the Respondent No.2 i.e. the first informant. Criminal Writ Petition No.4204 of 2025 is filed by the father-in-law and mother-in-law of the Respondent No.2 and Criminal Writ Petition No.4138 of 2023 is filed by the sister-in-law and sister-in-law's husband of the Respondent No.2. The parties have now settled their dispute and therefore, the prayer is made for quashing of the FIR by the consent.

2) In view of the statement, it is not necessary to refer to the allegations in detail. Briefly stated, the allegations are that the Respondent No.2's family received a marriage proposal for the Respondent No.2 and the Petitioner-Ashley. The marriage was fixed. The Petitioner-Ashley was working in Canada. He came to India on 15th January, 2022. It is the case of the first informant that even before the marriage, he established physical relations with the informant against her wish. She has mentioned such instances dated 15th January, 2022 and 16th January, 2022. They got married through the Court Marriage on 18th January, 2022. But they decided to stay in their respective houses till they performed marriage as per their religion. The FIR goes on to mention that inspite of her resistance, her husband established physical relations with her. There are allegations of acts which would fall within the meaning of Section 377 of I.P.C.

3) On 31st January, 2022 Ashley went back to Canada for his job. He came back to India on 8th May, 2022 for getting married. There marriage was performed as per their religious rites on 14th May, 2022. The FIR

thereafter goes on to mention various instances where she was ill treated and humiliated. The Respondent No.2 was pressurised by her husband for paying Rs.25,00,000/- as he wanted to purchase a house in Canada. On all these allegations the FIR is lodged. The charge-sheet contains statements of the parents and acquaintances. They have supported her allegations.

4) After all this, the parties have settled their differences. The Respondent No.2 has filed a separate affidavits in reply in all these Petitions separately. Those affidavits are affirmed before the registry of this Court. She has clearly stated in the affidavit that she was giving her consent to quash and set aside the present proceedings i.e. Sessions Case No.833 of 2024 pending before the Sessions Court at Greater Mumbai.

5) These Petitions are filed for quashing and setting aside the proceedings in relation to Sessions Case No.833 of 2024 pending before the Sessions Court, Greater Mumbai arising out of C.R. No.1980 of 2022 registered at Bandra police station under Sections 376, 377, 354, 509, 498A, 323, 504 read with 34 of I.P.C. Since the Petitioner-Ashley is not in India, the trial is proceeding against the rest of the Petitioners. She has no objection for quashing of the entire proceedings. She has stated that considering the future career of the Petitioners and her bonafide misconception she was giving her free consent for quashing of the FIR.

6) The learned Counsel for the Petitioners tendered a copy of the Consent Terms wherein it is mentioned that the Petitioner-Ashley has paid

Rs.32,00,000/- to the Respondent No.2 out of the agreed amount of Rs.42,00,000/- and balance amount of Rs.10,00,000/- is to be paid at the time of grant of decree of divorce by mutual consent. The Consent Terms are taken on record.

7) One of the prayers in the Petition filed by the Petitioner-Ashley is for quashing of the Look Out Circular bearing Outward No.975/DCP/Z9/2023 dated 1st July, 2023 issued by the Deputy Commissioner, Zone-9, Navi Mumbai at the instance of the Investigating Agency in this case. Hence, the following Order :-

:: ORDER ::

- (i) The proceedings in connection with the Sessions Case No.833 of 2024 pending before the Sessions Court, Greater Mumbai arising out of C.R. No.1980 of 2022 registered at Bandra police station under Sections 376, 377, 354, 509, 498A, 323, 504 read with 34 of I.P.C. are quashed and set aside.
- (ii) The authorities shall withdraw the Look Out Circular bearing Outward No.975/DCP/Z9/2023 dated 1st July, 2023 issued by the Deputy Commissioner, Zone-9, Navi Mumbai. It is made clear that this direction for withdrawal of the Look Out Circular is issued only in respect of present subject matter i.e. C.R.No.1980 of 2022 registered at Bandra police station.
- (iii) The Petitions are disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)