

(2016) 06 BOM CK 0111

In the Bombay High Court

Case No : Criminal Writ Petition Nos. 1459 and 1460 of 2016

Harsh Chandru Punjabee

APPELLANT

Vs

State of Maharashtra & Anr.

RESPONDENT

Date of Decision : 22-06-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 482
Penal Code, 1860 (IPC) — Section 406, 419, 420

Citation : (2016) ALLMRCri 3048 : (2016) 4 BomCR(Cri) 381

Hon'ble Judges : Naresh H. Patil and Prakash D. Naik, JJ.

Bench : Division Bench

Advocate : Ms. Devika Deshmukh i/b. Mr. Nachiket V. Khaladkar, Advocates, for the Appellant; Mr. J.P. Yagnik, APP, for the Respondent

Final Decision : Allowed

Judgement

Prakash D. Naik, J.—Rule. Rule made returnable forthwith.

2. Learned APP waives service for the respondent - State.

3. The petitioners in both the petitions have invoked the writ jurisdiction of this Court under Article 226 of the Constitution of India as well as inherent powers under Section 482 of the Code of Criminal Procedure. Petitioners have challenged the First Information Report ("FIR", for short) registered with the concerned police station on the ground that the parties have amicably settled their dispute.

4. Petitioner in criminal Writ Petition No.1459 of 2016 has challenged the FIR registered with Juhu Police Station vide CR No.286 of 2015 for the offences punishable under Section 406, 419 and 420 of the Indian Penal Code ("IPC", for short) and under Section 66(c) (d) of the Information Technology Act ("IT Act", for short). The said FIR has been registered at the instance of the second respondent on 28th July, 2015. Second respondent is wife of the petitioner.

5. In the aforesaid FIR dated 28th July, 2015, registered vide C.R.No.286 of 2015, it is alleged that the petitioner and second respondent had solemnized

their marriage on 11th December, 2010. Thereafter, second respondent was harassed and ill-treated by petitioner - accused. It is further alleged that petitioner ? accused has operated the bank account of the second respondent by impersonation and transferred the amount from fixed deposit account to his account and, thereafter, again redeposited the said amount in the account of the second respondent.

6. The subject matter of Criminal Writ Petition No.1460 of 2016 is the FIR dated 26th May, 2015 registered at the instance of second respondent with D.N. Nagar police station. The said FIR had been registered for the offences punishable under Section 498-A and 406 of the IPC vide C.R. No.346 of 2015. The said FIR has been registered against the petitioners. Petitioner no.1 is the husband of second respondent. In short, the FIR vide C.R.No.286 of 2015 and 346 of 2015 have been registered at the instance of second respondent against the petitioner/ husband. However, in C.R.No.346 of 2015 along with petitioner no.1/ husband, the second respondent has impleaded other relatives of the petitioner no.1 as accused. In the FIR, it is alleged that pursuant to the solemnization of the marriage between second respondent and petitioner no.1, she was subjected to harassment causing mental cruelty to her. It is alleged that the Stridhan of second respondent was misappropriated by the accused.

7. Learned counsel appearing for the respective parties have submitted that the dispute between both the parties have been amicably resolved and with a view to maintain peace and harmony, they have decided to put an end to the proceedings initiated by the second respondent. It was pointed out that petitioner and second respondent have entered into a compromise of their pending disputes by way of Consent Terms filed before the Family Court at Mumbai. The parties have filed a petition for divorce by mutual consent vide M.J. Petition No. F- 2388 of 2015. Parties have also tendered Consent Terms in the said proceedings before the Family Court. As per clause (8) of the Consent Terms, petitioner and respondent no.2 have agreed that the petitioner shall file the petition under Section 482 of the Code of Criminal Procedure, for quashing the FIR. Several other terms were mentioned in the said Consent Terms which includes depositing of an amount of Rs.2 crores by the petitioner husband towards the full and final settlement of the claim of respondent no.2 - wife. The said Consent Terms are taken on record and marked "X" for identification.

8. The complainant/respondent no.2 has tendered affidavit in both the petitions wherein it is stated that she has resolved the disputes with the accused in both the complaints. It is also stated that Consent Terms are being filed in the Family Court in the petition for divorce by mutual consent. It is also stated that by order dated 3rd June, 2016, the Family Court has allowed the said petition and the marriage between the respondent no.2 and the petitioner - husband has been dissolved. It is further mentioned that the second respondent is consenting for quashing the FIR which is under challenge in the aforesaid petition. Both the affidavits are taken on record and marked "X-1" and "X-2", respectively for the

purpose of identification.

9. We have perused the contents of the petition, the Consent Terms tendered by the parties before the Family Court and the affidavits submitted by the second respondent before this Court. From the said documents, it is apparent that the parties in respective petitions have arrived at amicable settlement and the complainant has consented for quashing the proceedings. It is pertinent to note that the second respondent has agreed as per the Consent Terms that she would consent for quashing the FIR registered at her instance. It can be seen that the dispute between the complainant and the accused in both the FIR are of individual nature and arising out of matrimonial disputes. Taking into consideration the fact that parties have settled their disputes amicably and want to live their life peacefully, we are inclined to allow the present petition.

10. The Hon"ble Apex Court in the case of *Gian Singh v. State of Punjab & Anr.* (2012) 10 SCC 303 has observed that in case of disputes which are of private nature, the High Court in exercise of its powers can quash the proceedings in the event of amicable settlement between the parties.

11. In view of the aforesaid circumstances, we pass the following order:

ORDER

(i) Rule is made absolute in both the petitions.

(ii) FIR No.286 of 2015 registered with Juhu Police Station for the offences punishable under Sections 406, 419 and 420 of the IPC is quashed and set aside.

(iii) FIR No.346 of 2015 registered with D.N. Nagar Police Station for the offences punishable under Sections 498-A and 406 of the IPC is quashed and set aside.

(iv) Parties to act upon an authenticated copy of this order.