

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

**CRIMINAL APPLICATION NO. 463 OF 2016**

Hema Sandip Parikh .. Applicant

V/s.

The State of Maharashtra & Ors. .. Respondents

.....  
Mr. A. N. Shaikh, Advocate for the Applicant.  
Dr. F. R. Shaikh, APP for the Respondent No.1 - State.  
Mr. Akhilesh Singh, Advocate for the Respondent No.2.  
.....

**CORAM : A.S. OKA AND P.D. NAIK, JJ.**

**DATED : APRIL 25, 2016.**

**P.C.**

Not on Board. Taken on Board.

2            Rule. Rule is made returnable forthwith. The learned prosecutor waives service for the respondent no.1. The respondent nos. 2 to 5 waives service.

3            This is an application by the applicant under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of the First Information Report (FIR) registered with Malad Police

Station. The applicant is the complainant in the said FIR which was registered vide CR No.112 of 2010 on 19<sup>th</sup> March, 2010 for the offences punishable under Sections 498A, 354, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code. The respondent nos.2 to 5 are implicated as accused in the said FIR.

4 In the FIR filed by the applicant/complainant it is alleged that she was married to the respondent no.2 on 7<sup>th</sup> July, 2008. It is further stated that, all the accused had caused harassment to her by abusing and assaulting her which had resulted in mental cruelty to her. In view of the said acts, she lodged the subject FIR.

5 Pursuant to the FIR, charge-sheet was filed by the police before the concerned Court and presently a case is registered as CC No.2402134/PW/10 which is pending in the Court of the Additional Chief Metropolitan 24<sup>th</sup> Court at Borivali, Mumbai.

6 It is pointed out by the applicant and the concerned respondents that the dispute has been amicably settled between both the parties. The applicant and the second respondent have

filed a petition for divorce by mutual consent before the Family Court under Section 13B of the Hindu Marriage Act, 1955. The applicant and second respondent have also submitted Consent Terms in the aforesaid proceedings before the Family Court. The said Consent Terms are a part of the present application. From the said Consent Terms, it is apparent that the parties have amicably settled the disputes. The respondent nos. 2 to 5 have also tendered an affidavit before this Court in which it has been mentioned that both the parties have amicably settled the dispute. It is further mentioned that the FIR was registered on account of the misunderstanding between the complainant and the concerned respondents and both parties had agreed to quash the proceeding by consent.

7           We have perused the FIR which has been sought to be quashed by the applicant and the concerned respondents. On going through the said FIR, it is apparent that the dispute is purely of a matrimonial nature. In paragraph no.6 of the present application, the applicant/complainant has stated that respondent no.2 and the applicant have decided to withdraw all proceedings from Courts and that they have settled their disputes. The applicant has also stated that this Court may quash the

proceedings by invoking inherent powers. In view of the settlement arrived at between both parties, we are inclined to exercise the powers under Section 482 of the Code of Criminal Procedure and allow the present application.

8           On going through the contents of the application, the documents annexed to the application, the Consent Terms tendered in the matrimonial proceedings before the Family Court, as well as on perusing the affidavit tendered by the concerned respondents, we are satisfied that this is a fit case where the powers under Section 482 of the Code of Criminal Procedure could be exercised and thereby quashing the impugned FIR. Reliance has been placed on the recent judgment of the Apex Court in the case of ***Gian Singh Vs. State of Punjab & Anr.***<sup>1</sup>. In the said decision, it has been categorically observed that, where the disputes are of a private nature, the powers can be exercised by the High Court under Section 482 of the Code of Criminal Procedure for quashing such proceedings on the ground that the parties have arrived at an amicable settlement. In view of the aforesaid observations and considering the factual aspect of the matter, we are inclined to allow this application.

---

1 2012 (10) SCC 303

9 Hence, we pass the following order:

**:: ORDER ::**

- (i) Rule is made absolute in terms of prayer clause (a) which reads thus:

*“a) That the record and proceedings be called for from the major state in C.C. No.2402134/PW/10 pending before the Court and also from the Senior Inspector of police Borivali Police Station in FIR Number 112 of 2010 for the offences under Section of the Indian Penal Code where in the petitioner being first informant and respondents being accused and after examining the same to be quashed and set aside.”*

- (ii) all concerned to act upon an authenticated copy of the operative part of this order.

**(P.D. NAIK, J.)**

**(A.S. OKA, J.)**