

VAT

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

CRIMINAL APPLICATION No. 533 OF 2013

***Mobinkumar Madhusudan Divakaran
and Ors.***

...Applicants

Vs.

State of Maharashtra and Anr.

...Respondents

***Mr. Chaitanya Pendse for the Applicants
Dr. F.R Shaikh -APP for Respondent No.1 State
Mr. Bakul Bhosale for Respondent No.2***

***CORAM : V. M. KANADE &
Ms. NUTAN D. SARDESSAI, JJ.***

DATE : DECEMBER 20, 2016

P.C. :

1. Heard the learned counsel appearing on behalf of the Applicants, learned APP for the State and the learned counsel for Respondent No.2.
2. This is an application for quashing the FIR, which is registered with Manpada Police Station vide FIR No. I 30 of 2012 for the offence punishable under section 376, 420 r/w. 34 of the Indian Penal Code.
3. In the complaint, it was alleged that Applicant No.1 accused had given a promise of marrying with the Complainant and they were living together. However, Applicant No.1 could not get marry with Respondent No.2 on the date fixed by them and, therefore, the present complaint

was filed alleging that the Applicants had cheated Respondent No.2.

4. Now the parties have settled the dispute amicably and both the parties have filed an application for quashing the FIR by consent. Both the parties are present in the Court. We have interviewed Respondent No.2 – Original Complainant and she has stated that she has no objection if the complaint is quashed. Consequently, the learned counsel for the Applicants submits that both the parties viz. Applicant No.1 and Respondent No.2 have got married on 28.8.2013 and they are now staying together. He has produced the marriage certificate in support of his submission.

5. Taking into consideration the fact that Respondent No.2 has now given her consent for quashing the complaint and Applicant No.1 and Respondent No.2 have got married and they are staying together for last four years, in our view, the criminal application for quashing the complaint will have to be allowed. The ratio of the judgment of the Apex Court in the case of **Gian Singh Vs. State of Punjab [(2012) 10 SCC 303]** would squarely apply to the facts of the present case.

6. Hence, the FIR bearing No. I 30 of 2012 registered with Manpada Police Station for the offence punishable under section 376, 420 r/w. 34 of the Indian Penal Code and the charge-sheet filed in the criminal case arising out of the said FIR which is pending in the

Sessions Court at Kalyan, Thane vide Sessions Case No. 68 of 2013 is quashed against all the Applicants. Criminal application is allowed and disposed of in the aforesaid terms.

Ms. NUTAN D. SARDESSAI, J.

V.M. KANADE, J.