

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2553 OF 2013

Sakil Mohd Ansari & Ors.

..... Petitioners

V/s

The State of Maharashtra & Anr.

..... Respondents

Mr. Omprakash Pandey i/b M/s. Pandey & Co. for the Petitioners.

Ms. M.H. Mhatre, APP for the Respondent Nos.1 and 2.

Mr. Pravin G. Sawant for the Respondent No.3.

CORAM : A.S. OKA &

A.A. SAYED, JJ.

DATED : 10 OCTOBER 2016

ORDER:

1 Rule. The learned Counsel appearing for the first Respondent waives service and the learned APP waives service for the first and the second Respondents. Forthwith taken up for final disposal.

2 The prayer in this Petition under Article 226 of the Constitution of India is for quashing the proceedings of the criminal case for the offences punishable under sections 498A and 406 read with section 34 of the Indian Penal Code. The first Informant is the third Respondent who was the wife of the first Petitioner. The second to sixth Petitioners are the

members of the family of the first Petitioner. Reliance is placed on Consent Terms filed in a proceeding filed by the third Respondent against the Petitioners which are signed by the first Petitioner and the third Respondent as well as their respective Advocates. Clause 3 of the Consent Terms records that the Talaq dated 3 August 2008 is valid and subsisting and the marriage solemnized between the first Petitioner and the third Respondent on 28 December 2003 stands dissolved. The Consent Terms also records settlement as regards the issue of custody of the minor daughter. It records that the first Petitioner will deposit sum of Rs.3,50,000/- as permanent maintenance for the benefit of the third Respondent. There is an Affidavit filed by the third Respondent in which she has accepted that there was a settlement as aforesaid and that she has withdrawn a sum of Rs.3,50,000/- being the amount of permanent maintenance deposited by the first Petitioner.

3 Thus, from the Consent Terms and the Affidavit of the third Respondent it appears that there is a complete settlement of the matrimonial dispute between the first Petitioner and the third Respondent. It was the matrimonial dispute which led to registration of First Information Report. Now after the settlement of the matrimonial dispute, continuation of criminal proceedings will cause prejudice to the Petitioners as well as third Respondent.

4 Therefore, in the light of the law laid down by the Apex Court in the case of **Gian Singh vs. State of Punjab**¹, the Petition must succeed and we pass following order:

ORDER

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

“(b) That this Hon'ble Court be pleased to issue writ of certiorari and/or such other appropriate writ, order and/or direction in the nature thereof thereby calling all the papers and records including F.I.R. No.428 of 2008 dated 30.6.2008, investigating papers etc. from the file of M.I.D.C. Police Station in F.I.R. No.428 of 2008 in Metropolitan Magistrate's 22nd Court at Andheri, Bombay C.C. No.3591/PW/2008 and after perusing the same this Hon'le Court be pleased to quash and/or set aside entire proceeding arising out of F.I.R. No.428 of 2008 dated 30.6.2008 in charge u/s. 498-A, 406 r/w. 34 of the Indian Penal Code of M.I.D.C. Police Station, Bombay in the light of Consent Terms dated 23.11.2012 and also pass such other and further orders and directions as this Hon'ble Court may deem fit and proper looking the facts and circumstances of the case;”

ii) All concerned to act upon an authenticated copy of this order.

(A.A. SAYED, J.)

(A.S. OKA, J.)

katkam

1 (2012) 10 SCC 303