

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.4249 OF 2016

Gangaram Kandai Passi and Another. .. Petitioners
Vs
The State of Maharashtra and Others. .. Respondents

—
Shri Shardul Singh i/b Ms. Raksha Jain for the Petitioners.
Shri N.B.Patil, APP for the Respondent Nos.1 and 2.
Shri Ganesh Bhujbal for the Respondent No.3.
—

CORAM : A.S. OKA &
SMT.ANUJA PRABHUDESSAI, JJ
DATED : 8TH FEBRUARY 2017

PC.

1. Heard the learned counsel appearing for the Petitioners.
Rule. The learned APP waives service for the first and second Respondents. The Advocate for the third Respondent waives service.
Forthwith taken up for final disposal.

2. The prayer in this Petition under Article 226 of the Constitution of India is for quashing the First Information Report (FIR) lodged at the instance of the third Respondent for the offences punishable under Sections 498A and 406 read with 34 of the Indian Penal Code.

3. The prayer for quashing is sought on the basis of the settlement. The third Respondent married to one Santosh. He is the

son of the first Petitioner's brother. The consent terms have been filed on record which are duly signed by the Petitioners as well as the third Respondent. The Petitioners and the third Respondent are personally present in the Court. The consent terms are taken on record and marked "X1" for identification. In the consent terms, it is stated that by the judgment and decree dated 30th April 2016 passed by the learned Principal Judge of the Family Court at Bhopal on a Petition filed by the said Shri Santosh, the marriage between him and the third Respondent has been dissolved by a decree of divorce. In the consent terms, it is stated that the third Respondent has accepted the said decree of divorce. The third Respondent is personally present in the Court. Through her Advocate, she states that the contents of the consent terms are true and correct and that she has accepted the decree of divorce dated 30th April 2016. We accept the said statements.

4. In the consent terms, the third Respondent has accepted that she has received all her belongings and stridhan. She has also recorded that as she is financially independent, she does not desire to seek any maintenance either from the said Shri Santosh or from the Petitioners herein. She recorded her no objection for quashing the criminal proceedings filed against the Petitioners.

5. We find that the matrimonial dispute between the third Respondent and her husband led to the registration of the impugned FIR. Considering the settlement of the matrimonial dispute between the third Respondent and her husband, the continuation of the criminal proceedings will serve no purpose. Therefore, the law laid down by the Apex Court in the decision in the case of *Gian Singh v. State Bank of Punjab*¹ will apply.

6. Accordingly, we pass the following order.

ORDER :

(a) Rule is made absolute in terms of prayer clause (a)

which reads thus;

“(a) this Hon'ble Court be pleased to issue a writ of Certiorari or a writ in the nature of Certiorari or any other writ, order or direction calling for the records and proceedings of the impugned FIR C.R.No.1213 of 2014 dated 26.07.2014 registered with Kharghar Police Station, Navi Mumbai and after examining the legality, validity and propriety thereof, be pleased to quash and set aside the same.”

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

(SMT.ANUJA PRABHUDESSAI, J)

(A.S. OKA, J)

1 (2012) 10 SCC 303