

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.4477 OF 2016

Sachin Namdev Jadhav
Versus

...Petitioner

The State of Maharashtra & Anr.

...Respondents

...

Mr. Rajesh Maruti Darvesh with Mr. Ranjeet Hatkar and Mr. Shyam Bhardwaj for the Petitioner.

Ms M.H. Mhatre, APP for Respondent No.1-State.

Mr. P.A. Pol for Respondent No.2.

CORAM : A.S. OKA &
SMT. ANUJA PRABHUDESSAI, JJ.

DATED : 13th JANUARY, 2017.

P. C. :

Rule. The learned APP waives service for the first Respondent. The learned counsel appearing for the second Respondent waives service. Both the Petitioner and the second Respondent are personally present. Forthwith taken up for final disposal.

2. The prayer in this Petition under Article 226 of the Constitution of India is for quashing and setting aside the proceedings of Sessions Case arising out of the First Information Report registered at the instance of the second Respondent alleging commission of offences punishable under Sections 323, 325 and 504 of the Indian Penal Code. It appears that while filing the charge-sheet, even section

307 of the Indian Penal Code was added apart from the Sections 498 A, 323, 325 and 504 of the Indian Penal Code. The Petitioner and the second Respondent are husband and wife. It appears that the second Respondent-wife filed proceedings under the Protection of Women from Domestic Violence Act, 2005. Against an order made in the said proceedings, the present Petitioner preferred an appeal before the Sessions Court at Satara. On 19th April, 2016 a settlement was recorded in the said appeal by the learned Sessions Judge, Satara. Pursis (Exhibit A to the Petition) was taken on record, which is duly signed by the Petitioner and the second Respondent. It appears that the Petitioner and the second Respondent have resumed cohabitation one year back. Accordingly, the Appeal was disposed of in terms of compromise by setting aside the order of the learned Magistrate. Even in the pending Sessions Case, an Application was filed by the Petitioner and the second Respondent by placing on record the same settlement.

3. There is an affidavit filed by the second Respondent, which is tendered today. In Paragraph No.2 she has stated that both of them are residing together at a native place from 14th March, 2015 onwards and there is no dispute or misunderstanding between them.

4. Considering the stand taken by the Petitioner and the

second Respondent, we had directed the Investigation Officer to make necessary verification and submit a report. Accordingly the Sub Inspector of Police of Koparkhairane Police Station recorded the statements of the Petitioner, second Respondent, the parents of the second Respondent and the mother of the Petitioner. Both husband and wife have stated that in the pending Appeal before the Sessions Court, the learned Sessions Judge suggested that they should patch up their dispute and start staying together. It is stated that accordingly both of them started staying together as husband and wife with effect from 15th March, 2015. Parents of the second Respondent and the mother of the Petitioner have confirmed the said fact. In the report submitted by the Sub Inspector of Police of the Koparkhairane Police Station, he has stated that in view of these statements, it appears that the Petitioner and the second Respondent are staying together.

5. Even the Consent Term filed in Criminal Appeal No. 67 of 2013 on 19th April, 2016 record that parties were already staying together for a period of more than one year. The Petitioner and second Respondent, who are present today through their learned counsel state that even till today they have continued to stay together. Thus, for a period of about 22 months, the Petitioner and the second Respondent

are residing together as husband and wife.

6. We have perused the statement of the second Respondent on the basis of which the First Information Report is registered. Taking the statement as correct, it is obvious that Section 307 of the Indian Penal Code is not attracted in the facts of the case.

7. It appears to us that matrimonial dispute between the Petitioner and the second Respondent led to the registration of the First Information Report. Now there is a reconciliation between the Petitioner and the second Respondent. They are residing together for last about 22 months. Therefore, continuation of criminal proceedings will cause undue harassment to the Petitioner and the second Respondent as well as to the members of their respective families. Therefore, this is a fit case where the law laid down by the Apex Court in **Gian Singh Vs. State of Punjab and another**¹ should be applied for quashing the criminal proceedings. We accordingly, pass the following order :

ORDER

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

¹ (2012) 10 Supreme Court Cases 303

“(b) this Hon'ble Court by invoking the powers vested under Section 482 of the Code of Criminal Procedure, may issue a writ, order or direction to quash the criminal proceedings in Sessions Case No.399 of 2013 arising out of FIR No.I-218 of 2012 registered against the Petitioner at the Koparkhairne Police Station, Navi Mumbai at the instance of the Respondent No.2 for the alleged offences punishable under Section 307, 498(a), 323, 325 and 504 of the Indian Penal Code.”

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

(ANUJA PRABHUDESSAI, J.)

(A.S. OKA, J.)