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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.325 OF 2021

Mohammed Mohsin Abdul Shukur Ansari And Ors. ..Applicants

v/s.

The Sr. Police Inspector And Ors.

..Respondents

....

Mr. Mateen Shaikh, for the Applicants.

Mr. J.P. Yagnik, APP, for Respondent State.

Mr. A.A. Siddiqui, for Respondent No.2.

....

**CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.**

DATE : 6 DECEMBER 2021.

P.C:-

By this application, the Applicants are seeking quashing of the FIR filed by Respondent No.3 under Sections 498A, 406, 323 and 504 read with Section 34 of the Indian Penal Code. C.R. No.423 of 2019 registered at Narpoli Police Station, Bhiwandi.

2. Respondent No.3 has filed an affidavit supporting the prayer for quashing. The learned Counsel for Respondent No.3 states that Respondent No.3 has affirmed the affidavit before Officer of this

Court after showing the necessary identity documents. He reiterates the statement made by Respondent No.3 in presence of Respondent No.3 as identified by the learned Counsel for Respondent No.3.

3. The learned Counsel for the Applicants and the learned Counsel for Respondent No.3 rely on the decision of the Supreme Court in the case of *Gian Singh vs. State of Punjab And Another*¹. More particularly, the following observations:

“ The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under

1 (2012) 10 Supreme Court Cases 303

special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

(emphasis supplied)

4. We have perused the FIR and the statement in context of the prayer made by the learned Counsel. In the FIR, Respondent No.3 has stated that she was subjected to physical and mental cruelty and

demand of dowry. In the affidavit, Respondent No.3 has stated that the matrimonial dispute is now resolved. She has received an amount of Rs.3,50,000/- and she has no objection for quashing of the present FIR and reference is also made to proceedings pending before the Court of Judicial Magistrate, Bhiwandi and under Section 125 of the Code of Criminal Procedure and Section 12 of the Protection of Women from Domestic Violence Act, 2005.

5. Having considered the averments and the contentions advanced before us, we find that the case at hand falls within the parameters laid down by the Supreme Court in the case of *Gian Singh vs. State of Punjab And Another*² as above, as the dispute giving rise to the matrimonial dispute is now resolved. Nothing adverse is pointed out that why the law laid down as above should not be applied to the present case.

6. Before passing the order, we make it clear that as regards the statement made by Respondent No.3 in the affidavit that upon receipt of the amount, she will never in future claim any amount from Applicant No.1, it is not deemed to have been accepted by this Court.

7. Accordingly, the application is allowed in terms of prayer clause (a):

² (2012) 10 Supreme Court Cases 303

“(a) This Hon’ble Court may graciously be pleased to quash the FIR registered with the Narpoli Police Station upon the complaint of Respondent No.3 vide C.R. No.423 of 2019 under Sections 498A, 406, 323, 504, 34 of Indian Penal Code pending for investigation against the Applicants.”

8. It is ordered accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)