

JPP

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

CRIMINAL WRIT PETITION NO. 1262 OF 2017

Manish Omprakash Bang and Ors. ... Petitioners
V/s.
State of Maharashtra & Ors. ... Respondents

Mr. Prashant Darandale for the Petitioners
Mr. K.V. Saste, APP for the Respondent – State
Ms. Priyanka Chavan for the Respondent No.2

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

DATE : 14 OCTOBER 2021

P.C. :-

Heard the learned Counsel for the Petitioners, the learned Counsel for the Respondent No.2 and the learned APP.

2. This Petition is filed seeking to quash the FIR dated 28 January 2017 being C.R.No.I-22/17 registered with Rabodi Police Station, Thane, for the offence punishable under Section 498(A), 406, 506 and 34 of the Indian Penal Code against the Petitioners.

3. The Respondent No.2 had lodged the FIR against the Petitioners. The Respondent No.2 is the wife of the Petitioner No.1. The Petitioner No.2 is the mother-in-law of the Respondent No.2. The Petitioner No.3 is the father-in-law. The Petitioner No.4 is the

brother-in-law and the Petitioner No.5 is the sister-in-law of the Respondent No.2. The FIR was lodged on the allegation that the Petitioners have caused mental and physical harassment to the Respondent No.2 and had demanded certain amounts and since it was not given, the harassment was meted out to the Respondent No.2.

4. The learned Counsel for the Petitioner and the learned Counsel for the Respondent No.2 states that the parties have resolved their dispute and the consent terms have been filed in the Family Court, Thane. The consent terms have been placed on record with the affidavit filed by the Respondent No.2 on 29 June 2021. The Respondent No.2 has also filed two more affidavits i.e. of 26 February 2021 and 4 September 2021. In the last affidavit the Respondent No.2 has stated as under :-

“(1) I say that I have already filed two Affidavits i.e. affidavit dated 26 February 2021 and additional affidavits dated 29 June 2021 in this Hon’ble Court, in support of the captioned Petition. I am now filing the present additional affidavit to bring further necessary facts on record.

(2) I state that in the affidavit dated 26 February 2021, I have inter alia stated that the offence i.e. FIR dated 28 January 2017, being C.R.No.I-22/17, registered with Rabodi Police Station, Thane came to be registered due to misunderstanding between the Petitioners and myself and that we have decided to settle the disputes amicably and that the Petitioner No.1 (my erstwhile husband) has

agreed to pay Rs.12,00,000/- (Twelve Lakhs Only) to me as the full and final settlement amount and alimony as per the terms of the mutual consent divorce petition bearing PF No.03/2021, pending before the Hon'ble Family Court, Thane.

(3) I say that I filed the additional affidavit dated 29 June 2021, pursuant to this Hon'ble Court's order dated 25 June 2021, wherein the Hon'ble Court had specifically directed me to file an additional affidavit and clarify the break-up of amount paid and to be paid. In the said additional affidavit I stated interalia that an amount of Rs.6,00,000/- (Six Lakhs only) has been paid to me vide the Cheque bearing No.039905 dated 5 January 2021, drawn on ICICI Bank, Infosys Phase II, Pune Branch, and that the balance amount of Rs.6,00,000/- (Six Lakhs only) is to be paid to me by the Petitioner No.1, and that the Petitioner No.1 has prepared a Demand Draft dated 28 June 2021 bearing No. 19243 of Rs.6,00,000/- (Six Lakh only) drawn on ICICI Bank ("said DD") to be handed over to me on 2 July 2021, before the Hon'ble Family Court, Thane at Thane.

(4) I say that on 2 July 2021, the said DD was handed over to me before the Hon'ble Family Court Thane at Thane, and accordingly the mutual consent divorce Petition bearing PF No.03/2021 has been disposed of.

(5) Therefore, I reiterate that all issues and misunderstandings between me and the Petitioners have been resolved amicably, and say that the entire amount of Rs.12,00,000/- (Twelve Lakhs only) has been paid to me as the full and final settlement amount and alimony as per the terms of the mutual consent divorce petition."

5. In furtherance of the three affidavits that have been filed in this Court and the consent terms filed in the Family Court, the learned Counsel for the Petitioners and the Respondents reiterate that they were entered into the settlement willingly.

6. It is quite clear that the dispute between the parties is resolved. These facts and circumstances are squarely covered by the dicta of the Apex Court laid down in the case of *Gian Singh v/s. State of Punjab and Anr.*¹. Quashing of the FIR will bring about a quietus in this domestic dispute. The learned APP has not pointed out anything to the contrary. Accordingly, the case is made out for quashing of the FIR.

7. The Writ Petition is allowed in terms of prayer clause (A) which reads thus :-

“(A) This Hon’ble Court be pleased to quash and set aside the FIR dated 28 January 2017 being C.R. No.I-22/17 registered with Rabodi Police Station, Thane, for the offence punishable under Section 498(A), 406, 506 & 34 of Indian Penal Code against the Petitioners, on such terms and conditions as this Hon’ble Court may deems, fit and proper in the facts and circumstances of this case.”

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

¹ (2012) 10 SCC 303