

JPP

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

CRIMINAL WRIT PETITION NO. 2293 OF 2021

Sahil Khan s/o. Sabir Khan and Ors. ... Petitioners

V/s.

State of Maharashtra and Ors. ... Respondents

Mr. Rajesh Kanojiya i/b. Ms. Anjali Awasthi for the Petitioners

Ms. A.S. Pai, P.P. for the Respondent – State

Mr. Yash Mishra h/f. Mr. Devendra Mishra for Respondent 2 & 3

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

DATE : 8 OCTOBER 2021

P.C. :-

The learned Counsel for the Petitioners firstly contended that the FIR lodged against the Petitioners be quashed by consent in view of the consent affidavit filed by the Respondent Nos. 2 and 3. The learned Counsel for the Petitioners in the alternative submitted that the FIR be quashed on merits.

2. As regard the request of both the Petitioners and the Respondent Nos. 2 and 3 to quash the FIR by consent is concerned,

we noted that in the FIR the two daughters of the original complainant being of age 15 and 17, the provisions of Protection of Children from Sexual Offences (POCSO) Act, 2012 are applied.

3. The learned Public Prosecutor contended that this case cannot be a case which fall within the parameters laid down by the Apex Court in the case of *Gian Singh v/s. State of Punjab and Anr.*¹ for quashing by consent. We agree with the contention of the learned P.P.

4. As regard the merits of the FIR is concerned, in the FIR the complainant had narrated in detail as to how the Petitioners committed sexual assault on the daughters aged 15 and 17 as well as the complainant themselves. The minors were subjected sexual assault and also suffered utter humiliation. The narration of events is clear. We cannot say that by reading of the FIR no offence is made out, the defence of the Petitioners will have to be advanced at the trial. No case is made out for quashing of the FIR both by consent as well as on merits.

5. The Writ Petition is accordingly disposed of.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

¹ (2012) 10 SCC 303