

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2923 OF 2021

Atul Vilas Gaonkar and others. ... Petitioners.
V/s.
The State of Maharashtra and another. ... Respondents.

Mr.Advait Uday Shukla for the Petitioners.
Ms.S.D.Shinde, APP for Respondent No.1.
Ms.Jayashri Machigar for Respondent No.2.

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

DATE : **29 October 2021.**

P.C. :

This writ petition filed under Article 226 of the Constitution of India and 482 of the Code of Criminal Procedure, 1973 seeks to quash FIR No.344/2020 registered with Kherwadi Police Station, Mumbai.

2. The FIR was lodged by Respondent No.2 under sections 498A, 406, 504, 506 read with section 34 of Indian Penal Code. The Petitioner and Respondent No.2 got married on 4 February 2020. Petitioner Nos.2 and 3 are the parents of Petitioner No.1.

Petitioner No.4 is the real brother and Petitioner Nos.5 and 6 are the cousin brothers of Petitioner No.1. Respondent No.2 filed an FIR alleging that she was subjected to mental and physical cruelty pursuant to a demand of dowry.

3. This petition is filed seeking to quash the FIR on the ground that the parties have settled their disputes. The Petitioner has stated that the Petitioner has also filed non-cognizable report against Respondent No.2 and she has also filed a complaint under the Domestic Violence Act, 2005. The Petitioner has also filed matrimonial proceeding in the Civil Court at Thane. Thereafter the Petitioner and Respondent No.2 decided to resolve their dispute amicably. The petition states that the parties have settled their disputes except the FIR and as per mutual consent divorce petition is filed before the Civil Judge, Junior Division, Thane, the Respondent No.2 has also consented for quashing of the FIR. The petition, in paragraph-12, mentions the terms of the settlement filed in the petition for divorce by mutual consent.

4. The Respondent No.2 has filed an affidavit in which Respondent No.2 has confirmed that all disputes have been resolved and consent terms have been filed. The Respondent No.2 has received a cheque of Rs.1 lakh out of Rs.4 lakh. The parties have agreed for a time-table for receiving the balance payment. This fact has been confirmed by the learned counsel for Respondent No.2 on instructions. The Respondent No.2 in the affidavit has stated that

she has received her valuables at the time of filing of petition for divorce by mutual consent. Both the learned counsel reiterated the stand of their respective clients and state that their respective clients have decided to resolve the disputes on their own volition and without any coercion. There is no reason to disbelieve this statement.

5. It is apparent that the dispute is a domestic dispute and does not have serious repercussion on the society and the fact situation squarely falls within the dicta of the Supreme Court in the case of *Gian Singh v. State of Punjab*¹ where the High Court can exercise its inherent jurisdiction to quash the FIR by consent in case of a domestic dispute. It is also apparent that keeping this criminal proceedings pending will amount to harassment to both the parties and impede the overall settlement.

6. In the light thereof, the 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 F.I.R. bearing C.R. No.344/2020 registered with Kherwadi Police Station, Mumbai, in the interest of justice.”

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

¹ (2012) 10 SCC 303