

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3264 OF 2021

Sabin Sadanand Bandekar .. Petitioner
v/s.
The State of Maharashtra & Anr. .. Respondents

....

Mr. Siddhesh Borkar, for the Petitioner.

Mr. J.P. Yagnik, APP, for Respondent No.1.

Ms. Tanvi Nadkarni, for Respondent No.2.

....

CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 23 NOVEMBER 2021.

P.C:-

By this petition, the Petitioner is seeking quashing of the FIR bearing No.562 of 2021 dated 22 May 2021 registered at Borivali Police Station and the Criminal Proceedings under Sections 498A, 323 and 504 of IPC.

2. The Petitioner and Respondent No.2 are husband and wife. Marriage took place between them on 20 November 2008. Respondent No.2 filed FIR under Section 498A, 323 and 504 of IPC contending that the Petitioner subjected her to mental and physical

cruelty and there were demands of dowry.

3. The petition had come up on board on 28 October 2021 and it was adjourned today, as was stated that Respondent No.2 is willing to give consent to quash the FIR, as parties have resolved their dispute amicably and have filed consent terms in the Family Court, Bandra.

4. Today, when the matter was called out, the learned Counsel for the Petitioner and the learned Counsel for Respondent No.2 has reiterated the stand of their clients that the dispute is resolved amicably.

5. The consent terms filed before the Family Court, Bandra are on record. The consent terms refer to the FIR under consideration and that Respondent No.2 will give consent for quashing the FIR. The parties have, by these consent terms, arrived at overall settlement, including the payments and distribution of assets. Respondent No.2 has filed an affidavit on 29 July 2021 and after the change of Advocate, on 18 November 2021. The learned Counsel for Respondent No.2 states that Respondent No.2 has given these affidavits willingly and has arrived at settlement without coercion.

6. Having perused the affidavit of Respondent No.2 and consent terms filed before the Family Court, Bandra, we find that the

resultant factual situation falls within the parameters laid down by the Supreme Court in the case of *Gian Singh vs. State of Punjab And Another*¹, wherein the Supreme Court has held that the High Court can quash the FIR in a cognizable offence by consent in certain cases such as matrimonial disputes, which do not have large scale repercussions on the society. We are not shown any reason as to why this position of law should not be made applicable in the facts of the present case. In light thereof, the petition deserves to be allowed and is, accordingly, allowed in terms of prayer clause (a) which reads thus:

(a) *Quash the FIR bearing No.562 of 2021 dated 22 May 2021 registered at Borivali Police Station and the Criminal Proceedings under Sections 498A, 323 and 504 of I.P.C.*

7. Petition is disposed of as above.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

1 (2012) 10 Supreme Court Cases 303