

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

[1] CRIMINAL APPLICATION NO.569 OF 2020

Virbala Popatlal Jain	 Applicant
Versus	
The State of Maharashtra and another	 Respondents

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WITH

[2] CRIMINAL APPLICATION NO.2 OF 2021

Harshil Popatlal Jain	 Applicant
Versus	
The State of Maharashtra and another	 Respondents

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WITH

[3] CRIMINAL APPLICATION NO.3 OF 2021

Manisha Karan Sanghvi	 Applicant
Versus	
The State of Maharashtra and another	 Respondents

.....

WITH

[4] CRIMINAL APPLICATION NO.4 OF 2021

Popatlal Shantilal Jain	 Applicant
Versus	
The State of Maharashtra and another	 Respondents

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Mr. Gautam Jain, Advocate a/w. Kush Dhawan i/b. Kiran Jain & Co. for the Applicants.

Ms. Prabha Badadare, Advocate for Respondent No.2 in all applications.

Mr. J.P. Yagnik, APP, for Respondent No.1 State in all applications.

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

DATE : 04 DECEMBER 2021

P.C.

. Heard the learned counsel for the parties. Taken up for disposal by consent.

2. These applications arise from the same First Information Report lodged by Respondent No.2 being FIR No.139/2020 dated 14 August 2020 registered with Kalachowki police station, Mumbai under Sections 498A, 406, 323, 377, 504 read with 34 of Indian Penal Code, and thus disposed of by this common order.

3. The Applicant in Criminal Application No.569/2020 is the mother-in-law of the Respondent No.2. The Applicant in Criminal Application No.2/2021 is the husband of the

Respondent No.2. The Applicant in Criminal Application No.3/2021 is the sister-in-law of the Respondent No.2. The Applicant in Criminal Application No.4/2021 is the father-in-law of the Respondent No.2, who has expired.

4. The Respondent No.2 filed FIR alleging that she was married on 6 July 2018. Thereafter when she had gone to stay with her husband, the Applicants subjected her to mental and physical cruelty and demands of dowry. After the FIR was lodged, during pendency of the applications, charge-sheet was filed before the Metropolitan Magistrate. 15th Court at Sewri, Mumbai and Criminal Case No.883/PW/2020 is registered.

5. The present applications are filed seeking to quash the FIR, charge-sheet filed and the criminal proceedings arising therefrom, by taking various grounds. However, the learned counsel for the Applicants and the learned counsel for Respondent No.2 informed that the parties have resolved their dispute and the settlements have been arrived at in the matrimonial disputes between them and also in the proceedings under the Domestic Violence Act.

6. The learned counsel for the Applicants and Respondent No.2 jointly make a request that the present FIR, charge-sheet and consequent proceedings be quashed and they rely upon the decision of the Hon'ble Supreme Court in the case of *Gian Singh*

Vs. State of Punjab and another, reported in (2012) 10 SCC 303,
more particularly the following observations :

“The position that emerges from the above discussion can be summarized 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 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 favour

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)

7. Perusal of the FIR shows that it is arising out of a domestic dispute. The relation of parties to each other is as stated above. The learned counsel for the parties state that upon settlement between the parties, M.J. Petition No.A-1486/2020

filed before the Family Court is converted by consent into a petition for divorce by mutual consent. The parties have signed the consent terms filed in the matrimonial petition. On 8 October 2021, the Family Court granted the decree of divorce by mutual consent. As per the consent, Domestic Violence Case being D.V.MA. No.54/2020 filed by Respondent No.2 was withdrawn by her on 16 August 2021.

8. The learned counsel for the parties have drawn our attention to the copies of the consent terms annexed to the reply filed by Respondent No.2. The Reply filed by the Respondent No.2 also contains order passed by the Magistrate and the Family Court. Pursuant to the consent terms, cheques have been given which have been referred to in the affidavit sworn by Respondent No.2. Upon instructions of Respondent No.2 who is present in the Court and who is identified by the learned Counsel, the learned counsel for Respondent No.2 reiterated the contents of the affidavit. Respondent No.2 has given details about the settlements and that Respondent No.2 also intends to put an end to the dispute and gives consent for quashing.

9. It is clear that the crime in the FIR does not affect the society at large and it is a domestic dispute. Not quashing the FIR will disrupt the settlement process which is already substantially taken place. Reliance of the learned counsel on the decision of the

Apex Court in *Gian Singh* (supra) is appropriate and the law laid down by the Apex Court, as above, will have to be given effect to in this case as nothing adverse is pointed out to us for it should not be so.

10. Therefore, it would be in the interest of justice to quash the FIR. Accordingly, the applications are allowed in terms of prayer clause (a) and the FIR No.139/2020 registered with Kalachowki police station, Mumbai and all other proceedings pursuant to the FIR and the charge-sheet are quashed and set aside.

11. Criminal Applications are accordingly disposed of in above terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

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by
PRADIPKUMAR
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DESHMANE
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Deshmane (PS)