

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3355 OF 2021

Kashyap Yogesh Kapadia
and others

.... Petitioners

Versus

The State of Maharashtra and another

.... Respondents

....

Ms. Mallika Ingale, Advocate for the Petitioners.

Ms. S.D. Shinde, APP for Respondent No.1-State.

Ms.Pooja Joshi, Advocate i/b. A.M.Saraogi, Advocate for Respondent No.2.

....

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

DATE : 28 OCTOBER 2021

P.C.

This Criminal Writ Petition filed under Article 226 of the Constitution of India and under Section 482 of the Criminal Procedure Code seeks to quash the FIR vide C.R. No.415/2018 registered with Kandivali Police Station, Mumbai for the offences under Sections 498-A, 323, 504, 506, 406 read with 34 of the Indian Penal Code.

2. The learned counsel for the Petitioners informs that earlier an application being Criminal Application No.138/2019 was filed challenging the FIR on merits, which was disposed of on 4 November 2019. The learned counsel submitted that the present Petition is filed

in view of the subsequent development of settlement between the parties.

3. The parties are related to each other. The Petitioner No.1 is the son of ex-husband of Respondent No.2, the Petitioner No.2 is the wife of Petitioner No.1, the Petitioner No.3 is the brother of ex-husband of Respondent No.2 and the Petitioner No.4 is the wife of Petitioner No.3. The FIR was filed primarily upon the contentions that the Respondent No.2 was subjected to mental and physical cruelty and there were demands of dowry.

4. The learned counsel for the parties state that the Petitioners and the Respondent No.2 have resolved their dispute and a settlement agreement is also executed between the Petitioners and the Respondent No.2 on 20 August 2021. The settlement agreement stipulates steps the parties would take in respect of various cases pending between them. There is a reference in the Settlement Agreement, clause (3), that the Respondent No.2 has given no objection for quashing of the present FIR.

5. The learned counsel for the Petitioners and the Respondent No.2, on instructions, reiterate the assertions made in the settlement agreement dated 20 August 2021. An affidavit is filed by the Respondent No.2 on 27 September 2021 that in view of the settlement agreement, the Respondent No.2 has no objection for quashing of the present FIR. It is stated in the affidavit that the

Respondent No.2 is entitled to received an amount of Rs. Sixty Five Lakhs.

6. The learned counsel for the Respondent No.2, upon instructions from Respondent No.2, states that a Pay Order No.044078 dated 17 August 2021 drawn on HDFC Bank, Mulund Branch, Mumbai in the sum of Rs.Sixty Five Lakhs is received in the Court today.

7. Having considered the averments in the FIR and the contentions in the settlement agreement, we find that it is a fit case that falls within the parameters of the Apex Court in the case of *Gian Singh Vs. State of Punjab and another reported in (2012) 10 SCC 303* whereupon if there is no general impact on the society, a domestic dispute, such as the present one, can be quashed by consent. Nothing is shown to us that why this *dicta* should not be applied to the present case. In light thereof, the Writ Petition is allowed in terms of prayer clause (a) which reads thus :

“a. That C.R. No.415 of 2018 registered with the Kandivali Police Station for offences under Sections 498(a), 323, 504, 506, 406, 34 of the Indian Penal Code, 1860 be quashed and set aside;”

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2021.10.30
13:18:09
+0530