

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

CRIMINAL APPLICATION NO. 704 OF 2021

Sumit Vijay Mukherjee & Anr.	..Applicants
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Ravindra Vishnu-Laxmi Sankpal a/w. Shailendra Sharma i/b. R. V. Sankpal & Associates for Applicants.
Ms. S. D. Shinde, APP for State/Respondent No.1.
Ms. Sheetal Pritmani, Respondent No.2 – in person, present.

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

DATE : 07 OCTOBER 2021

P.C. :

. This Application is filed by the Applicant Nos.1 and 2. The Applicant No.1 is the brother of the Applicant No.2 and husband of the Respondent No.2.

2. The Respondent No.2 filed an F.I.R. under sections 498A, 313, 323, 406, 504 and 506 read with 34 of the I.P.C. The gist of the F.I.R. is that, the Respondent No.2 while residing with the Applicants was subjected to mental and physical cruelty and also that

the Applicants' parents made the parents of the Respondent No.2 to pay certain amounts and to buy consumable goods for the use of the Respondent No.2.

3. The learned counsel for the Applicants states that the matter is now settled between the parties and the Respondent No.2 is now co-habiting with the Applicant No.1. The Applicant No.1 has now secured a job at Berlin in Germany. The Affidavit of the Respondent No.2 is filed. The Respondent No.2 is present in the Court. Since she has not engaged any Advocate, we requested the learned APP to take instructions from her. The learned APP states that, she has interacted with the Respondent No.2 and has confirmed that the Respondent No.2 is co-habiting with the Applicant No.1 and she is desirous of joining the Applicant No.1 in Germany.

4. Having gone through the contents of the F.I.R. and the stand now taken before us by the Respondent No.2, it is more than clear that the Respondent No.2 will not support the prosecution. Considering the fact that, they are now staying together, continuation of the prosecution would be needless harassment to all the parties. This factual situation squarely falls within a law laid down by the Hon'ble Apex Court in the case of *Gian Singh Vs. State of Punjab and Another reported in (2012) 10 Supreme Court Cases 303*. Thus a case is made out for quashing of the F.I.R.

5. Accordingly, Application is allowed in terms of prayer

clause (a) which reads thus :-

“a. this Hon’ble Court may be pleased to quash the FIR No. 0249/2021 registered U/s. 498-A, 313, 323, 34, 406, 504, 506 of the I.P.C., 1860 at Kharghar Police Station, Navi Mumbai and which is now under the investigation of Crime Branch, Unit Kalamboli, Navi Mumbai, District Raigad.”

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)