

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 847 OF 2021

Shekhar Pandharinath Pokale

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Amol Jagtap a/w. Mr. Ganesh Kawade for Applicant.

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

Mr. Sachin R. Pawar for Respondent No.2.

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

DATE : 24 NOVEMBER 2021

P.C. :

. This Criminal Application is filed with the following
prayer:

“a) This Hon’ble Court be pleased to allow the application of the Applicant and quash the F.I.R. No.0627/2019 and the consequential proceedings arising out of it viz. R.C.C.No.2741/2020 pending before the 18-JUDICIAL MAGISTRATE F.C. ANTI-CORRUPTION, PUNE by consent of the Respondent No.2 along with the Non Cognizable Complaint No.115/2019 lodged by the Respondent No.2 with the Paud Police station

and the proceedings of the same pending before the Hon'ble J.M.F.C. Court No.7, Pune by consent of the Respondent No.2."

2. The Applicant and Respondent No.2 were married on 15 November 2013. Disputes arose between them. They started living separately. The Applicant filed a proceeding for divorce before the Family Court, Pune. The Respondent No.2 filed a proceeding for restitution of conjugal rights. The Family Court Appeal No.188 of 2019 was pending when this application was filed. The consent terms were filed in the Family Court Appeal on 9 September 2021. The parties have agreed in the consent terms for quashing and withdrawal of 11 cases filed against each other. The present F.I.R. being one of them. A lumpsum amount was agreed to be paid to the Respondent No.2.

3. The learned counsel for the Respondent No.2 reiterates the above position and states that the affidavit is also filed by the Respondent No.2, wherein the Respondent No.2 has stated as under:

"9. That, the disputes between the parties are amicably settled and the consent terms are filed by the parties herein in the Family Court Appeal No.188/2019 wherein I have consented to the quashing of the F.I.R No.0627/2019 lodged by me with Sinhagad Road Police Station, District- Pune for the offences punishable u/s 324, 504, 494, 506 and 34 of I.P.C and the consequential proceedings arising out of the said

F.I.R i.e. R.C.C. NO.2741/2020 PENDING BEFORE THE 18-JUDICIAL MAGISTRATE F.C. ANTI-CORRUPTION, PUNE and the NON-COGNIZABLE COMPLAINT NO.115/2019 LODGED WITH PAUD POLICE STATION, Pune.

10. I state that, the lump sum amount of Rs.45,00,000/- by way of Demand Draft bearing Demand Draft Number 031613 dated 02/09/2021 is drawn in my name as per the consent terms.

11. I state that, in the backdrop of the same, I am consenting to the quashing of the F.I.R No.0627/2019 lodged by me with Sinhagad Road Police Station, District- Pune for the offences punishable u/s 324, 504, 494, 506 and 34 of I.P.C and the consequential proceedings arising out of the said F.I.R i.e. R.C.C.NO.2741/2020 PENDING BEFORE THE 18-JUDICIAL MAGISTRATE F.C. ANTI-CORRUPTION, PUNE and the NON-COGNIZABLE COMPLAINT NO.115/2019 LODGED WITH PAUD POLICE STATION, Pune and the same is without any coercion or undue influence of Mr.Shekhar P. Pokale and his Family members.”

4. Having considered the factual matrix as above and the consent terms, we find that the F.I.R. in question can be quashed by consent of the Respondent No.2, even though, it discloses cognizable offences in the light of law laid down by the Hon’ble Supreme Court in the case of *Gian Singh Vs. State of Punjab and another*¹, wherein

1(2012) 10 Supreme Court Cases 303

the Hon'ble Supreme Court has held that the High Court has inherent power to quash the F.I.R. in cognizable offences, in certain situation, such as the present one. Nothing adverse is pointed out to us as to why this legal position be not made applicable to the facts of the case.

5. Accordingly, the application is allowed in terms of prayer clause (a) as reproduced above.

6. The Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)