

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.789 OF 2021

Mohammed Rashid Nasir Ansari .. Applicant
v/s.
The State of Maharashtra And Anr. .. Respondents

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Mr. Khalid Khan, for the Applicant.

Ms. Nibha Jha, for Respondent No.2.

Mrs. M.H. Mhatre, APP, for Respondent No.1.

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CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 16 NOVEMBER 2021.

P.C:-

Heard learned Counsel for the parties.

2. This is an application filed under Section 482 of Criminal Procedure Code to quash FIR No.834 of 2021 registered with Malwani Police Station, punishable under Sections 498-A, 354, 406, 323, 504 and 34 of the Indian Penal Code upon the complaint filed by Respondent No.2.

3. The ground on which the FIR is sought to be quashed is

that the parties have resolved their dispute and Respondent No.2 has given consent for quashing of the FIR. The perusal of the FIR shows that the dispute led to filing of the FIR is a matrimonial dispute. Respondent No.2 is the wife of the Applicant. She had filed the FIR alleging mental and physical cruelty and demand of dowry.

4. In the affidavit that is filed by Respondent No.2, Respondent No.2 has stated as under:

“1. Upon her complaint, C.R.No.834/2021 came to be registered by Malwani Police Station against her husband, i.e. the Applicant, and same is outcome of matrimonial dispute between the Applicant and Respondent No.2.

2. Dispute between them is amicably settled and accordingly they have decided to part ways and continuing further in their respective lives.

3. As the dispute is amicably settled, she gives her consent/no objection for quashing of FIR No.834 of 2021 registered with Malwani Police Station, Mumbai.

4. The affidavit is executed without any force or coercion and she has no objection if FIR No.834 of 2021 registered with Malwani Police Station, Mumbai, which is lodged upon any complaint is quashed and set aside.

5. Dispute between them is amicably settled out of her own free will, therefore, she do not wish to prosecute case against the Applicant or pursue any legal proceeding against the Applicant in the subject matter.

6. Dispute given rise to the present complaint is private in nature which establishes that no purpose will be served to conduct the trial.

7. Present affidavit is executed for better and effectual quash/withdraw/NOC to set aside FIR No.834 of 2021 registered with Malwani Police Station, Mumbai.”

5. Learned Counsel for Respondent No.2 states that Respondent No.2 is present in the Court and she has reiterated her statements made in the affidavit.

6. Having heard learned Counsel for the parties and perusing the FIR, it is clear that the resultant fact situation squarely falls within the ambit of the decision of the Supreme Court in the case of *Gian Singh vs. State of Punjab And Another*¹, where the Supreme Court has held that cases such as this, where the parties are putting an end to a matrimonial dispute, the High Court has power to quash the FIR of a cognizable offence by consent of parties. It is also clear that the affidavit filed by Respondent No.2 is without coercion.

7. In light thereof, the application is allowed in terms of prayer clause (a) qua the Applicant.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

1 (2012) 10 Supreme Court Cases 303