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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.793 OF 2021

Akshay Kishor Tajane And Anr. .. Applicants

v/s.

The State of Maharashtra And Anr. .. Respondents

....

Mr. Anup Lahoti, for the Applicants.

Mrs. M.H. Mhatre, APP, for Respondent State.

Mr. Vivek Arote, i/b. Piyush Toshniwal, for Respondent No.2.

....

CORAM: NITIN JAMDAR &
SARANG V. KOTWAL JJ.

DATE : 6 DECEMBER 2021.

P.C:-

Leave to amend to correct the spelling of the first name of Respondent No.2. Amendment to be carried out forthwith. At the request of learned Counsel, taken up for disposal.

2. Respondent No.2, who has filed an FIR No.116/2020 at Ambad Police Station, Nashik, for offences punishable under Sections 498A, 406, 323, 504, 506 and Section 34 of the Indian Penal Code against the Applicant. Applicant No.1 is the husband of Respondent No.2. Applicant No.2 is the mother-in-law. Applicant No.3 is the

sister-in-law. Applicant No.4 is the uncle of Applicant No.1. Applicant No.5 is the friend of Applicant No.1.

3. In the FIR, Respondent No.2 has stated that she was subjected to mental and physical cruelty and demands for dowry.

4. The learned Counsel for the Applicants and the learned Counsel for Respondent No.2 point out that Applicant No.1 and Respondent No.2 have filed divorce proceedings by mutual consent under Section 13B of the Hindu Marriage Act, in which Respondent No.2 has signed the consent terms, which states that Respondent No.2 will give consent for quashing the present FIR. A notarized affidavit and affidavit of Respondent No.2 sworn before the Officer of this Court is on record. The learned Counsel for Respondent No.2 has reiterated the contentions of the affidavit of Respondent No.2 in presence of Respondent No.2, as identified by the learned Counsel for Respondent No.2.

5. In these circumstances, we find that the reliance of the learned Counsel for the Applicants on the decision of Supreme Court in the case of *Gian Singh vs. State of Punjab And Another*¹ is appropriate to the case at hand. This FIR is a result of matrimonial dispute and it does not have large scale repercussions on the society. The parties have already filed consent terms in the divorce proceedings

¹ (2012) 10 Supreme Court Cases 303

and keeping this FIR pending would be a needless harassment to all parties.

6. In these circumstances, a case is made out for allowing the application, which is allowed in terms of prayer clause (b) as under:

“(b) That this Hon’ble Court be pleased to quash and set aside FIR No.116 of 2020 against the present Applicants, registered with Ambad Police Station, Nashik for the offences punishable under Sections 498-A, 406, 323, 504, 506 and 34 of IPC as this Hon’ble Court may deem fit and proper.”

7. It is ordered accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)