

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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CRIMINAL WRIT PETITION NO. 362 OF 2022

Mr.Gaurav Ashok Bangia & Ors. ... Petitioners

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. A.R.Maurya i/b. ARM Legal for the Petitioners.

Mrs. A.S. Pai, PP for the State.

Mr.Prashant Rai i/b. Mr. Sharad Rai for Respondent No.2.

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CORAM : NITIN JAMDAR AND
N.R. BORKAR, JJ.

DATED : 27 JULY 2022

P.C. :-

By this Petition, the Petitioners are seeking to quash the FIR lodged by Respondent No.2 under Section 498(A) read with 34 of Indian Penal Code.

2. The reason given for quashing the FIR is the consent given by Respondent No.2 for the same. Respondent No.2 filed the FIR alleging that she was subjected to mental and physical cruelty and demands of dowry by the Petitioners. The affidavit of consent is filed by Respondent No.2. The learned Counsel for

Respondent No.2 states that she is present in the Court. In the affidavit of consent filed by Respondent No.2, she has stated that the Petitioners and Respondent No.2 have settled their differences and they have undertaken to file a joint petition and/or separate petition in the Family Court. The stand of Respondent No.2 is reiterated by the learned Counsel for Respondent No.2. The affidavit of consent is sworn before the Officer of this Court.

3. Since there are no other proceedings pending, it was put to the learned Counsel for the parties who conveyed to their clients, that the Court is proceeding to quash the FIR on the ground of consent of Respondent No.2 and the Court will not monitor undertaking or promise that has been made by Respondent No.2 for quashing the FIR, that is, in future they will file a joint / separate petition regarding their matrimonial dispute etc. The learned Counsel for the parties have conveyed the stand of their respective clients that both have understood the same and aware of the position.

4. Considering that the offence does not have large scale implications on the society and that Respondent No.2 has given her consent for quashing the FIR and that it is not likely to result in conviction, the prayer for quashing the FIR by consent is granted.

5. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads thus :

“[a] THAT this Hon’ble Court be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction in the like nature of mandamus under Article 226 of the Constitution of India and under the inherent power under section 482 of Criminal Procedure Code be pleased to Quash and set aside the First Information Report being FIR at ANNEXURE -I hereto i.e. FIR No. 228 of 2018 registered by the Samata Nagar Police Station, Kandivali Mumbai under section 498 (A) read with section 34 of IPC by Consent of the Parties concern, and/or to pass such other and further Orders as this Hon’ble Court may deem fit and proper in the interest of justice”.

6. The writ petition is disposed of in above terms.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)