

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

CRIMINAL APPLICATION NO. 272 OF 2022

1. Mitesh Jethmal Oswal
2. Sajjan Oswal
3. Dipti Nilesh Sheth
4. Nilesh Sheth

...Applicants

Versus

1. The State of Maharashtra
2. Akanksha Mitesh Oswal

...Respondents

Mr. Abhijeet Sarwate a/w Ms. Hardev Kaur Aidhen for the Applicants

Ms. S. D. Shinde, A.P.P for the Respondent No.1-State

Mr. Ahmad Ayub Mulani for the Respondent No. 2

**CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.
(IN CHAMBERS)
WEDNESDAY, 9th NOVEMBER 2022**

P.C :

1 Heard learned counsel for the parties.

2 Rule. Rule is made returnable forthwith, with the
consent of the parties and is taken up for final disposal. Learned

A.P.P waives notice on behalf of the respondent No.1–State.

Mr. Mulani waives notice on behalf of the respondent No.2.

3 By this application preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR bearing C.R. No. 352/2017 registered with the Khadak Police Station, Pune, as against the applicants for the alleged offences punishable under Sections 376, 377, 313, 498A, 406, 506, 34 of the Indian Penal Code. Quashing is sought on the premise that the applicants and the respondent No. 2 have amicably settled their dispute.

4 The applicant No. 1 is the husband of the respondent No. 2; applicant No. 2 is the mother-in-law and applicant No. 3 is the sister-in-law and applicant No. 4 is the brother-in-law of the respondent No.2 respectively.

5 It appears that applicant No. 1 and respondent No. 2

got married on 7.6.2015 at NCT, Delhi. It was a love marriage. It appears that after a few months, there was a marital discord between the applicant and respondent No. 2, pursuant to which, the respondent No. 2 lodged the aforesaid FIR as against the applicants, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Sessions Judge, Pune being Sessions Case No. 75 of 2018. It also appears that respondent No. 2 has filed an application bearing No. 1499/2020 under the provisions of the Domestic Violence Act before the learned Magistrate, Khadki, Pune.

6 During the pendency of the aforesaid proceedings, the parties amicably settled the dispute and the respondent No. 2 agreed to withdraw the DV proceedings pending before the learned Judicial Magistrate First Class as well as the present C.R. The respondent No. 2 has filed her affidavit which is at page 31 of the application. The said affidavit is dated 4th January 2020, which is duly affirmed before the Notary. In the said affidavit, the respondent No. 2 has

stated that she has no objection to quashing of the said complaint/C.R registered at her behest. She has also stated that the parties have also filed a petition seeking divorce by mutual consent before the learned Family Court, Pune, being P.F. No. 2245/2020. Since the respondent No. 2 is in Gwalior, we have heard her on video conferencing. On being questioned, she reiterates what is stated by her in her affidavit.

7 Learned counsel for the respondent No. 2 is also present through video conferencing. He has sent a self attested xerox copy of the Aadhar card of the respondent No. 2 to the learned counsel for the applicants. The same is taken on record.

8 Since the applicant No. 1's father, also an accused in the said case, has expired, the question of case proceeding *qua* him, will not arise. Allegations of Section 376 were made as against the applicant's father. Since he has expired, the case will stand abated against him. Learned A.P.P states that the concerned Officer has

verified the death certificate and as such, does not dispute the demise of the applicant No. 1's father.

9 Learned A.P.P states that the abortion had taken place with the consent of both, the applicant No. 1 and the respondent No. 2. Considering the same, no offence under section 313 of the Indian Penal Code is disclosed *qua* any of the applicants.

10 Considering the nature of dispute; the relations between the parties, the amicable settlement between them, the affidavit of the respondent No. 2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², there is no impediment in allowing the application.

11 The application is accordingly allowed. The FIR bearing C.R. No. 352/2017 registered with the Khadak Police Station, Pune, as against the applicants is quashed and set-aside and consequently,

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Sessions Case No. 75 of 2018 pending before the learned Sessions Judge, Pune and application bearing No. 1499/2020 filed under the provisions of the Domestic Violence Act, pending before the learned Magistrate, Khadki, Pune, are also quashed and set-aside.

12 Rule is made absolute in the aforesaid terms.
Application is disposed of accordingly.

13 All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.