

**+IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1303 OF 2021**

Shakuntaladevi Dube and ors. ...Petitioners

Versus

The State of Maharashtra and another ...Respondents

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Mr. Niranjan Mundargi i/b Mr. Kral Mehta for the Petitioners.

Mr. J.P. Yagnik, APP for the State.

Mr. A.M. Saraogi for Respondent No.2.

.....

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

DATED : 1 AUGUST 2022

P.C. :-

Heard learned Counsel for the parties.

2. Considering the order to be passed in the Petition, the matter is taken up for disposal forthwith.

3. By this Petition, the Petitioners prayed the following relief:

“B. This Hon’ble Court be pleased to quash and set aside FIR bearing C.R. No. 102 of 2020 dated 15/02/2020 registered with Andheri Police Station for offences punishable under Section 498A, 506 of IPC and Section 4 of the Dowry Prohibition Act in the interest of justice.”

4. The reason given for quashing is the consent given by Respondent No. 2 Complainant. The learned Counsel for the Petitioners and Respondent No. 2 jointly prayed that the FIR be quashed with the consent of Respondent No. 2. The learned Counsel rely upon the decision of Supreme Court in the case of *Gian Singh Vs. State of Punjab and anr*¹.

5. The Respondent No. 2 filed the FIR under Section 498A, 406, 506 read with Section 34 of IPC and Section 4 of the Dowry Prohibition Act, 1961. Respondent No. 2 alleged that she was subjected to physical and mental cruelty and demands of dowry.

6. The Respondent No. 2 through the Advocate has filed an affidavit, wherein the Respondent No. 2 has stated as under:

“2. I say that, since the matter has been amicably settled between me and the Petitioners, I am not dealing with any of the allegations appearing in the Petition on merits and as such, nothing shall be deemed to have been admitted by me unless specifically admitted and the things contrary be treated to have been denied by me in all respect.

3. I say that, it is true that I was engaged with the Petitioner No. 3 and thereafter, we were planning for the marriage however, the marriage has never taken place between us. I say that however, since after the marriage, I was required to join the Petitioner No. 3 at U.S.A. before

¹ (2012) 10 SCC 303.

actual marriage is being performed under the vedic law, it was decided that only for the completion of Visa formalities, the marriage be registered though, infact, no such marriage has ever taken place.

4. I say that, accordingly only for the said purpose, the marriage certificate has been obtained from the authorities concerned. I say that subsequently, due to the personal reasons, we have decided not to get married with each other and due to some misunderstanding between us, the present Complaint came to be lodged.

5. I say that, subsequent thereto, I am already married to another person and as such, I am residing with my present husband happily and as such, I do not intend to continue with the complaint which has been filed only because of the misunderstanding between the parties.

6. I say that, accordingly, I am filing my present Affidavit seeking indulgence of this Hon'ble Court to pass appropriate order that this Hon'ble Court be pleased to quash the FIR No. 102 of 2020 dated 15 February 2020 registered under the provisions of Section 498A, 406, 506 of IPC read with the provisions of Section 4 of Dowry Prohibition Act, in the interest of justice.

7. I say that, if the FIR in question is quashed, no prejudice would be caused to any of the party and on the other hand, if the same continued, it will cause trouble in my married life in all respect.

8. I say that, accordingly, I am filing the present Affidavit of my own sweet will and appropriate orders be passed, thereby granting the subject FIR and allow the present Writ Petition No. 1303 of 2021 in the interest of justice.”

7. Though, we take note of the above mentioned contentions of Respondent No. 2, more particularly, the consent of Respondent No.

2 for quashing the FIR, we are not deemed to have opined on the factum whether marriage has taken place or otherwise. The dispute raised in the FIR does not have large scale implications on the society. In light of the consent given by Respondent No. 2 it will be a needless harassment to the parties and it is not likely to result in conviction.

8. Accordingly, the case is made out for quashing the FIR.

9. The Petition is allowed in terms of prayer Clause (B) as above.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)