

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 296 OF 2022

Anand Jeetmal Parekh

...Applicant

Versus

1. The State of Maharashtra
2. Amita Anand Parekh

...Respondents

Mr. Vikram Sutaria for the Applicant.

Mr. J.P.Yagnik, A.P.P for the Respondent-State.

Ms. Pinaz Contractor for the Respondent No.2.

**CORAM : REVATI MOHITE DERE &
R. N. LADDHA, JJ.**
DATE : 15th 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. Ms. Pinaz Contractor waives notice on behalf of the respondent No.2.

3. By this application, preferred under Section 482 of the Criminal Procedure Code and Article 226 of the Constitution of India, the applicant seeks quashing of the FIR, bearing C.R. No. 277 of 2021 registered with the Marine Drive Police Station, Mumbai, (subsequently, transferred to the Cyber Cell, BKC, Mumbai) for the alleged offences punishable under Sections 354A, 354D r/w 34 of the Indian Penal Code, as well as, under Section 67A of the Information Technology Act, 2000. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The applicant is the husband of the respondent No.2. It appears that the applicant and the respondent No.2 got married on 22nd January, 1999 and from the said wedlock, have two children, aged 20 years and 16 years. According to the respondent No.2 (original complainant) as she was ill-treated/harassed

by the applicant and others, she was constrained to file an FIR, which was registered vide C.R.No.210 of 2020 with the Marine Drive Police Station, Mumbai, alleging offences punishable under Sections 498A etc. of the Indian Penal Code. It appears that subsequently, the respondent No.2 filed another complaint/FIR with the Marine Drive Police Station, Mumbai, which was subsequently, transferred to the Cyber Crime Branch at Bandra-Kurla Complex, Mumbai. The allegation made by the respondent No.2 in the instant FIR, is that, she received an indecent message on 19th May, 2021, on her WhatsApp number xxxxxxxx. She has stated that since the message was from an unknown number, she ignored the same and did not think it fit to open the same and check its contents. The respondent No.2 has further alleged that when she informed her Advocate about the said message, the said message was opened by the respondent No.2 in the presence of her Advocate. She has stated that they noticed certain obscene messages including her photo were seen by them. Pursuant thereto, the respondent No.2 lodged the aforesaid complaint / FIR, which was registered vide C.R.No. 277 of the 2021, at the behest of

the respondent No.2. We are informed that chargesheet has not been filed in the present case.

5. It is not in dispute that the applicant had also filed a petition, seeking divorce, in a Court at Ahmedabad. It appears that subsequently, the applicant and the respondent No.2 amicably settled their dispute and entered into Consent Terms. The said Consent Terms are at Exhibit-B at page 20. The said Consent Terms are dated 11th February, 2022. In the said Consent Terms, both parties agreed to withdraw the complaints/cases, filed against each other, since both, reconciled their differences and started living together.

6. Learned Counsel for the respondent No.2 has tendered a Consent Affidavit of the respondent No.2 dated 1st March, 2022, duly notarized before the Notary. In the said affidavit, the respondent No.2 has stated that due to some misunderstanding, difference in lifestyle, the complaint was lodged, however, the dispute has now been resolved amicably and they both are residing together.

7. The respondent No.2 is present in person. On questioning, she re-iterates what is stated by her in her affidavit. She states that she is living with the applicant No.1 for the last 11 months and as such, has no objection for quashing of the aforesaid FIR. The respondent No.2 has been identified by her Counsel. Learned Counsel for the respondent No.2 has tendered a photocopy of the Aadhar Card of the respondent No.2, duly attested by her. The same is taken on record and the original Aadhar Card is verified by the learned APP.

8. Considering the nature of dispute, the relations between the parties, the amicable settlement between them, the Consent Terms entered into between them, the affidavit of the respondent No.2, the fact that the applicant and the respondent No.2 have reconciled and are living together, and the judicial pronouncements of the Apex Court in the case of *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.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

9. The application is accordingly allowed and the FIR bearing C.R. No. 227 of 2021, registered with the Marine Drive Police Station, Mumbai, is quashed and set-aside.

10. Rule is made absolute in the aforesaid terms and the application is disposed of accordingly.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.