

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

CRIMINAL WRIT PETITION NO. 1316 OF 2022

1. Mr. Vivek Suresh Dubey
Indian Inhabitant, aged about 30 years,
Occupation: Service.
2. Mr. Vipin Chandresh Dubey
Indian Inhabitant, aged about 27 years,
Occupation: Service.
3. Mrs. Ruby Sachin Mishra,
Indian Inhabitant, aged about 28 years,
Occupation: Housewife
All at Flat No.B-605 Lavender Bldg.
Yashwant Nagar,
Virar (West), Taluka Vasai
Dist: Palghar, Maharashtra ... Petitioners

Versus

1. Mrs. Mahima Vimal Mishra
Indian Inhabitant aged about 33 years,
Occupation: Housewife
Residing at G Wing, Flat No.502
Cherry Residency, Near Yashwant Gaurav
Nallasopara (West),
Taluka Vasai, District: Palghar.
2. State of Maharashtra
At the instance of Nala Sopara Police Station,
In FIR No. 167 of 2018. ... Respondents

***WITH
CRIMINAL WRIT PETITION NO. 1321 OF 2022***

1. Mr. Sachin Sheshnarayan Mishra
Indian Inhabitant, aged about 30 years,
Occupation: Student.
 2. Mr. Vimal Sheshnarayan Mishra
Indian Inhabitant, aged about 36 years,
Occupation: Service.
 3. Mr. Hemant Anil Shukla,
Indian Inhabitant, aged about 29 years,
Occupation: Self employed
Residing at Flat No.101, New Sheetal.
Sarita Building, Poddar Road,
Malad (East), Mumbai – 400 097.
 4. Mr. Sheshnarayan Mishra
Indian Inhabitant, aged about 60 years,
Occupation: Service, Govt. Official.
Nos. 1, 2 and 4 Residents of G/505,
Cherry Residency, Nalla Sopara (West),
Dist: Palghar, Maharashtra
- ... Petitioners

Versus

1. Mrs. Ruby Sachin Mishra,
Indian Inhabitant, aged about 22 years,
Occupation: Housewife
Residing at B Wing, Flat No.604,
Lavender Building, Yashwant Nagar
Virar (West), Taluka Vasai, Dist. Palghar

2. State of Maharashtra

At the instance of Nala Sopara Police Station,

In FIR No. 164 of 2018.

... Respondents

*WITH
CRIMINAL WRIT PETITION NO. 1322 OF 2022*

1. Mr. Sachin Sheshnarayan Mishra
Indian Inhabitant, aged about 30 years,
Occupation: Student.
2. Mr. Sheshnarayan Mishra
Indian Inhabitant, aged about 60 years,
Occupation: Service, Govt. Official.
3. Mrs. Nirmala Sheshnarayan Mishra
Indian Inhabitant, aged about 35 years,
Occupation: Housewife.
4. Mr. Vimal Sheshnarayan Mishra
Indian Inhabitant, aged about 35 years,
Occupation: Service.
5. Mrs. Mahima Vimal Mishra
Indian Inhabitant, aged about 33 years,
Occupation: Housewife.
6. Mr. Bipin Sheshnarayan Mishra
Indian Inhabitant, aged about 34 years,
Occupation: Service.
7. Mrs. Priya Bipin Mishra
Indian Inhabitant, aged about 32 years,
Occupation: Housewife.
All residents of G/606,
Cherry Residency, Nalla Sopara (West),
Dist: Palghar, Maharashtra

... Petitioners

Versus

1. Mrs. Ruby Sachin Mishra,
Indian Inhabitant, aged about 22 years,
Occupation: Housewife
Residing at B Wing, Flat No.604,
Lavender Building, Yashwant Nagar
Virar (West), Taluka Vasai, Dist. Palghar
 2. State of Maharashtra
At the instance of Nala Sopara Police Station,
In FIR No. 37 (36) of 2018. ... Respondents
- Mr. Mohit Dwivedi for the Petitioners in WP/1316/2022 and Respondent No.1 in WP/1322/2022 and WP/1321/2022.
- Mr. Hemant Shukla for the Petitioners in WP/1321/2022 and WP/1322/2022.
- Mr. Aashutosh Ratudi i/by Mr. Gaurav Shukla for the Respondent No.1 in WP/1316/2022.
- Mr. Y. M. Nakhwa, APP for the Respondent No.2-State in all Writ Petitions.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 25th NOVEMBER, 2022

Order (Per R. N. Laddha, J.) :-

Heard learned Counsel for the parties.

2. Rule. The Rule is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. By writ petition No.1316 of 2022, the Petitioners seek to quash the FIR No.167 of 2018 dated 05.05.2018, lodged with Nallasopara Police Station, Palghar, at the instance of respondent no.1/original Complainant for the alleged offences punishable under Sections 354, 354-A, 323, 504, 506, r/w 34 of the Indian Penal Code. Petitioners No. 1 and 2 are the brothers of Petitioner No.3. Respondent No.1 is the wife of the brother of Sachin Mishra, who is husband of Petitioner No.1. It is alleged in the FIR that on 04.05.2018 at about 5:00 p.m. Petitioners No. 1 and 2 came to the house of Respondent No.2, abused and threatened her, her husband and brother-in-law Sachin. They also inappropriately touched her.

4. By writ petition No.1321 of 2022, the Petitioners seek to quash the FIR No.164 of 2018 dated 04.05.2018, lodged with Nallasopara Police Station, Palghar, at the instance of respondent no.1/original Complainant for the alleged offences punishable under Sections 354, 354-A, 323, 509, 506, r/w 34 of the Indian Penal Code. Petitioner No.1 is the husband of Respondent No.1, Mrs Ruby Mishra. They got married on 27.05.2015 as per Hindu Vedic rights and rituals. Petitioners No.2 and 4 are the brother

and father, respectively, of Petitioner No.1. It is alleged that the Petitioners abused Respondent No.1, and Petitioner No.2 held her hands and kicked her and Petitioner No.3 inappropriately touched her.

5. In writ petition No.1322 of 2022, the Petitioners seek to quash the FIR No.37 of 2018 dated 26.01.2018, lodged with Nallasopara Police Station, Palghar, at the instance of respondent no.1/original Complainant for the alleged offences punishable under Sections 307, 498-A, 406, 323, 504, 506, r/w 34 of the Indian Penal Code. Petitioner No.1 is the husband of Respondent No.2. Their marriage was performed on 27.05.2015 as per Hindu vedic rites and rituals. After marriage, she started to reside at her matrimonial home with the Petitioners. Petitioners No. 2 and 3 are the in-laws, Petitioners No.4 and 6 are the brother-in-law of Respondent No.1. Petitioner No.5 is the wife of Petitioner No.4, and Petitioner No.7 is the wife of Petitioner No.6. It is alleged that post marriage, all the Petitioners ill-treated and harassed Respondent No.1. It is also alleged that Petitioners No.3, 4 and 5 attempted to administer phenyl to Respondent No.1.

6. When these Petitions for quashing the impugned FIRs were placed before us, it was stated by the learned Counsel for the parties that the dispute, which was purely domestic, had been amicably settled. They, in unison, submitted that it was agreed

between the parties that the husband and wife, i.e. Sachin Mishra and Ruby Mishra, severe the marital relations by completing and executing all the formalities, including the divorce petition filed at Family Court at Bandra, Mumbai. It was agreed between the parties not to proceed in these petitions against each other. They submitted that it was agreed to pay a sum of Rs.7,00,000/- to Ruby Mishra towards the full and final settlement amount by Sachin Mishra. The said amount will be treated as permanent alimony for Respondent-Ruby Mishra. The amount will be paid to her in two instalments, i.e. first instalment of Rs.3,00,000/- will be paid to her during the quashing proceedings in these petitions and accordingly, today, a Demand Draft of Rs.3,00,000/- is handed over to her and balance sum of Rs.4,00,000/- will be paid to her at the time of the order being passed in the mutual divorce petition. Both parties assured to abide by the conditions stipulated in the consent affidavit. Respondent No.1 Ruby Mishra and Mahima Mishra filed their consent affidavits. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. They submitted that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

7. The learned APP for Respondent No.2 submits that

1 (2012)10 SCC 303

2 (2014) 6 SCC 466

appropriate orders may be passed.

8. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the cases of *Gian Singh and Narinder Singh (Supra)*. It appears from the record that there is a chequered history of litigations between the Petitioners and Respondents. The dispute between them seems to be a family dispute between husband and wife. Apart from these litigations, Ruby Sachin Mishra has also filed a Domestic Violence Application before the Metropolitan Magistrate Court at Borivali, Mumbai, being DV Case No. 158 of 2018. Sachin Mishra and Ruby Mishra have filed a divorce petition under Section 13B of the Hindu Marriage Act, Petition No.F/356/2021. The FIR arising from purely domestic dispute can be quashed by consent in light of the decision of the Hon'ble Supreme Court in *Gian Singh (Supra)*.

9. Upon perusal of the record, it appears that the main reason for the filing of the FIRs is a matrimonial dispute. Given the settlement between the parties, Respondent No.1/Original Complainant in these petitions will not support the prosecution case. The accusation would be flawed, and allowing criminal prosecution to continue would be an abuse of the process of the Court. It will also disrupt the compromise and interfere with the restoration of peace. Nothing fruitful will, therefore, come out of

the prosecution in question. The parties wish to put their past behind. If the FIRs are not quashed, the entire family will remain embroiled in litigation and prosecution, which will not serve the interest of justice. The dispute also does not have any ramifications on Society at large. Mrs Ruby Mishra and Mahima Mishra are present before the Court and stated that they have no objection if the impugned FIRs against the Petitioners are quashed, given the settlement between them. On questioning, they reiterated what was said by them in their affidavits and further stated that due to certain misunderstandings, they had lodged the impugned FIRs. Mrs Ruby Mishra has clarified that no one has administered or forced her to consume phenyl. Medical case papers are to the contrary. They show that Ruby Mishra had consumed phenyl. Having perused the papers, no offence under Section 307 of the IPC is disclosed against the Petitioners in Writ Petition No. 1322 of 2022. Learned APP has verified their original Aadhar Cards and learned counsel appearing for Respondent No.1-Ruby Mishra has identified the said Respondents.

10. Considering these facts and circumstances, we see no difficulty in quashing the FIRs. The petitions, therefore, are allowed, and the impugned FIRs and the proceedings arising therefrom are quashed and set aside.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by BIPIN
DHARMENDER
PRITHIANI
Date: 2023.01.04 15:09:31
+0530