

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.1961 OF 2022

Prasad Vilas Kulkarni] Petitioner

Vs.

1. State of Maharashtra]

2. The Police Inspector]

3. Anand Krishnarao Kulkarni]

(Original Complainant)]

Since Deceased through Legal Heir]

A. Sunita Anand Kulkarni]

(Wife of Respondent No.3 -]

Original Complainant)]

B. Gauri Prasad Kulkarni]

(Daughter of Respondent No.3 -]

Original Complainant)]

C. Rashmi Pradeep Kulkarni]

(Daughter of Respondent No.3 -]

Original Complainant)]

D. Ashish Anand Kulkarni]

(Son of Respondent No.3 -]

Original Complainant)] Respondents

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Mr. Shantanu R. Phanse i/b Mr. Ajinkya M. Udane, for
Petitioner.

Mr. Y.M. Nakhwa, A.P. P, for Respondent-State.

Mr. A.R. Avachat, for Respondents No.3 (A) to 3 (D)

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 13th SEPTEMBER, 2022.

P.C.

1. Heard learned Counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and the petition is taken up for final disposal. Learned A.P.P waives service on behalf of respondent-State. Mr. Avachat, learned Counsel waives service on behalf of respondents Nos.3(A) to 3(D).
3. By this petition, the petitioner seeks quashing of the First Information Report (for short "F.I.R") No.0185 of 2018 registered with the Juna Rajawada Police Station, Kolhapur for the alleged offence punishable under section 325 of the Indian Penal Code (for short "I.P.C").

4. Learned Counsel for the petitioner submits that the petitioner is the husband of respondent No.3(B) - Gauri. He submits that several cases were initiated by the parties against each other and that the present case is one such case. He submits that in the transfer petition filed in this Court i.e Miscellaneous Civil Application No.378 of 2019, the petitioner and respondent No.3 (B) - Gauri amicably settled their dispute and filed consent terms in the said proceedings. He submits that both the petitioner as well as respondent No.3(B) - Gauri have agreed in the consent terms to ensure that all the proceedings pending against each other are withdrawn by the respective parties/family members.

5. Learned Counsel for respondents No.3(A) to 3(D) (Heirs of Respondent No.3) submits that all family members of the respondent No.3(B) - original complainant (deceased) are present in person. He submits that the said respondents have no objection if the proceeding against the petitioner is quashed.

6. On being questioned, all the respondents No.3(A) to 3(D) - legal heirs of respondent No.3, who are present in the Court, state that they have no objection if the proceeding as against the petitioner is quashed in view of the consent terms.

7. Learned Counsel for the petitioner and learned Counsel for respondent No.3(A) to 3(D) has tendered xerox copies of the Aadhar Card of the petitioner and the respondents No.3(A) to 3(D). The said documents are taken on record and marked as 'X' (colly).

8. Perused the papers. The petitioner is the husband of respondent No.3(B) - Gauri. It appears that several cases were initiated by the petitioner and respondent No.3(B) - Gauri against each other. Infact, some of the cases have also been initiated by the family members of respondent No.3(B) - Gauri, as against the petitioner. In the Transfer Proceedings filed by the petitioner before this Court, the dispute was amicably settled by the petitioner with the respondent No.3(B)-Gauri. The said consent terms entered into between the parties are at 'Exhibit D'

at page 58 of the petition. In the said consent terms, details of the cases pending between the parties in the Court at Kolhapur and in this Court have been spelt out. The Respondent No.3(B)-Gauri has agreed to ensure that the cases filed as against the petitioner would be withdrawn by her/relatives, in view of settlement between the parties. It also appears that marriage between the petitioner and the respondent No.3(B)-Gauri has been dissolved by a divorce decree passed under section 13B of the Hindu Marriage Act.

9. Considering the relations between the parties, the nature of dispute in the present petition which arises out of a matrimonial dispute between the parties and the judicial pronouncements in this regard in **Gian Singh Vs. State of Punjab**¹ and **Narinder Singh and others Vs. State of Punjab and Another**², there is no impediment in allowing the petition.

10. The petition is accordingly allowed and C.R. No.0185 of 2018 registered with Juna Rajwada Police Station, Kolhapur is

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

quashed and the proceeding arising therefrom i.e R.C.C No.614 of 2019 pending before the concerned Court is also quashed and set aside.

11. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

12. All the parties to act on the authenticated copy of this order.

[PRITHVIRAJ K. CHAVAN, J.] [REVATI MOHITE DERE, J.]