

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3693 OF 2021

Najeeb Mohammed Sayeed and another. ... Petitioners.
V/s.
The State of Maharashtra and another. ... Respondents.

Mr.Ishan Jani for the Petitioners.
Mr.A.S.Pai, PP for the Respondent- State.
Mr.Farhad Panthaki for Respondent No.2.

CORAM : NITIN JAMDAR AND
ARUN R. PEDNEKER, JJ.

DATE : 21 July 2022.

P.C. :

Heard the learned counsel for the parties.

2. The Petitioners are seeking the following relief:

“(a) that this Hon’ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records of FIR No. 679/2017 dated 01/11/2015, filed with Bandra Police Station, and the Charge Sheet being C.C. No. 1291/PW/2017 pending before the court of the Ld. Metropolitan Magistrate’s 12th Court at Bandra, Mumbai and after looking into the legality and propriety thereof as well as the deposition of the Respondent No.2, to quash and set aside the same.”

The reason given for seeking this relief is the consent given by Respondent No.2.

3. Respondent No.2 is the wife of Petitioner No.1 and Petitioner No.2 is the mother of Petitioner No.1. The learned counsel for the parties state that the FIR was the result of matrimonial dispute and the parties have settled the same and have filed the consent terms before the Metropolitan Magistrate Court, Bandra in CC/DV/2018. On the complaint of Respondent No.2 that she was subjected to physical and mental cruelty and demand of dowry an FIR was lodged with the Bandra Police Station, Mumbai.

4. Respondent No.2 has filed affidavit in this petition the contents of which are reiterated by the learned counsel for Respondent No.2. The learned counsel for Respondent No.2 states that Respondent No.2 has given this affidavit willingly. Respondent No.2 has stated in the affidavit as under:

“4. I say that we have decided to part our ways amicably and live our life independently without each other’s intervention and interference. We have thus arrived at a settlement and accordingly the consent terms have been entered into. I say that we have arrived at an amicable out of court settlement vide consent terms dated 19th March 2021.

5. *I say that I have voluntarily, without any coercion, arrived at a settlement with the Petitioners. I say that pursuant to the aforesaid settlement, I hold no grievances, grudges, animosity against the Petitioners herein. I say that I am desirous of withdrawing all my allegations and charges, unconditionally, against the Petitioners herein.*

6. *I say that I am making this affidavit voluntarily, without any force or coercion, to give a formal consent to the Petitioners and have no objection if the prayers as prayed in the petition are allowed. I say that the Petitioner No.1 has decided to pay me a onetime alimony. I say that the aforesaid alimony will be paid to me vide a demand draft issued in my favour. The said demand draft will be handed over to me when the present Petition is allowed at the time of passing of the order by the Hon'ble Court.*

7. *I say that I am desirous of withdrawing all my allegations against the Petitioners herein and would like to lead a normal life and part my ways with the Petitioner No. 1. I say that the FIR and the chargesheet pending against the Petitioners herein would cause severe inconvenience to all of us. I say that in the best interest of our future, the aforesaid petition may be allowed.”*

5. Having perused the affidavit and in the facts and circumstances of the case, we are of the opinion that the fact situation falls within the law laid down by the Supreme Court in the case of *Gian Singh v. State of Punjab*¹ and, therefore, the FIR is required to be quashed and set aside upon the consent of Respondent No.2.

¹ (2012) 10 SCC 303

The offence does not have large scale repercussion on the society and not quashing the FIR will disturb the settlement process and would be a needless harassment.

6. Accordingly, writ petition is allowed in terms of prayer clause (a).

(ARUN R. PEDNEKER, J.)

(NITIN JAMDAR, J.)