

JPP

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

WRIT PETITION NO. 1292 OF 2022

Shefali Ayaangar @ Shefali Surani

... Petitioner

V/s.

The State of Maharashtra and Anr.

... Respondents

Ms. Gayatri Gokhale and Zainba Abdi i/b. Rizwan Merchant & Associates for the Petitioner

Ms. Sachi Lodha i/b. Ms. Tauban F. Irani for the Respondent No.2

Ms. M.H. Mhatre, APP for the Respondent - State

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

DATE : 27 JUNE 2022

P.C. :-

By this Writ Petition filed under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, the Petitioner is praying for the following relief :-

“(a) That this Hon’ble Court be pleased to quash and set aside FIR No. 372/2016 registered with MHB Colony Police Station and CC No. 3006/PW/2017 pending before the Ld. Metropolitan Magistrate, Borivali u/s. 324, 504 of the Indian Penal Code against the Petitioner and any other application arising

therefrom and incidental thereto on such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case."

The reason for seeking quashing of the FIR is at par that the Respondent No.2 has given consent for the same.

2. The Respondent No.2 and the Petitioner are husband and wife. The Respondent No.2 – husband filed the FIR contending that they were married in the year 2001 and from 2008 there was dispute amongst the parties. On 2 November 2016 when the Respondent – Complainant returned home, the Petitioner picked up quarrel and assaulted the Respondent with a water bottle and a knife. The Respondent No.2 had to take treatment in the hospital.

3. The Respondent No.2 has filed an affidavit of consent which contents are reiterated by the learned Counsel for the Respondent No.2. The consent terms filed in the Family Court, Bandra in Petition No.A-1917 of 2017 are placed on record. By these contents of the consent terms, the parties have agreed to take divorce by mutual consent. The Respondent No.2 has agreed to give no objection for quashing the FIR. The learned Counsel for the Petitioner and Respondent No.2 jointly pray that the FIR be quashed. The learned Counsel rely on the decision of the Supreme Court in the case of *Gian Singh v/s. State of Punjab*¹

¹ 2012(10) SCC 303

4. We have considered the joint request. The Supreme Court in the case of *Gian Singh* has considered the power of the High Court under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure to quash the FIR/chargesheet with the consent of the complainant in the cases where cognizable offence is involved. The Supreme Court in the case of *Gian Singh* has held that in certain cases such as matrimonial cases where the dispute does not have large scale implications on the society, the FIR/Chargsheet can be quashed by consent.

5. Perusal of the FIR and the consent of the parties as above demonstrates that this dicta is squarely apply to the case in hand. If the FIR/chargesheet is not quashed, it will be needless harassment to the parties as it is not likely to result in conviction. The offence does not have large scale implications on the society.

6. The Petition is allowed in terms of prayer clause (a).

N.R. BORKAR, J.

NITIN JAMDAR, J.