

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.2099 OF 2022

Aseem Onkarnath Bhardwaj And Ors. .. Petitioners
v/s.
The State of Maharashtra & Anr. .. Respondents

....

Ms. Darshana S. Solanki, for the Petitioners.

Mrs. M.H. Mhatre, APP, for State.

Mr. Bimal Bhabhda, for Respondent No.2.

....

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

DATE : 29 JUNE 2022.

P.C:-

Heard the learned Counsel for the parties. Taken up for disposal.

2. By this petition, the Petitioners are seeking the following relief:

“(a) This Hon’ble Court be pleased to quash the FIR bearing

CR No.37 of 2021 dated 25/01/2021 registered with Goregaon Police Station under Section 498A, 406, 323, 504, 506 read with 34 of the Indian Penal Code on such terms and conditions as this Hon'ble Court may deem fit and proper.”

3. The reason for praying for relief is that the Respondent-Complainant has given consent for quashing the FIR. The Respondent-Complainant is the wife of Petitioner No.1. Petitioner Nos. 2 and 3 are her in-laws. The complaint was filed by Respondent No.2 on the ground that she was subjected to physical and mental cruelty and demands of dowry. In the proceedings pending before the Metropolitan Magistrate's Court at Borivali, Mumbai, bearing No.DV/473/2019, the parties have filed consent terms, which consent terms are also filed on the record of the Family Court, Mumbai, where both Petitioner No.1 and Respondent No.2 have filed their matrimonial proceedings.

4. In the petition, the Petitioners have made the following averments:

“7. During the hearing in domestic violence case in the learned Metropolitan Magistrate's 67th Court, at Borivali,

the learned Magistrate had sent the matter for mediation. Thereafter, several meetings were held between Petitioner No.1 and Respondent No.2 to settle the matter and, accordingly, after number of meetings, the consent terms dated 15 April 2022 were executed.

8. Before the filing of FIR No.37 of 2021 on 25 January 2021, Respondent No.2 had filed a Domestic Violence Case No.DV 473 of 2019 in the learned Metropolitan Magistrate's 67th Court, at Borivali, Mumbai, against all the Petitioners, which is now withdrawn in lieu of the consent terms filed before the Hon'ble Court on 19 April 2022.

9. The Petitioners state that the said consent terms have been filed before the learned Family Court.

X X X

12(f) As per the consent terms executed before the Hon'ble Metropolitan Magistrate's 67th Court, at Borivali, Mumbai in the D.V. matter, Petitioner No.1 has already handed over Rs.15,00,000/- (Rupees Fifteen Lakhs only), i.e. part payment of permanent alimony vide any negotiable instrument to Respondent No.2 and the same is honoured.

12(g) The remaining balance of the permanent alimony, i.e. Rs.2,89,00,000/- (Rupees Two Crore Eighty Nine Lakhs Only) has been deposited with the Principal Judge at the Family Court, Bandra, as per the present consent terms.”

X X X

5. Reply filed is filed by the Respondent-Complainant reiterating the contents of the consent terms accepting the above, and stating that all disputes and differences between Respondent No.2 and the Petitioners have been resolved. Based on this position, the learned Counsel for the Petitioners and Respondent No.2 jointly pray that the FIR be quashed. The learned Counsel for the parties state that even though the FIR mentions cognizable offence, in light of the decision of the Supreme Court in case of *Gian Singh v/s. State of Punjab and Another*¹, this Court has powers to quash the FIR in circumstances such as the present one.

6. We have perused the consent terms and the affidavit filed. These consent terms were taken on record by the learned Magistrate and proceedings were disposed of. The consent terms have been arrived at after mediation between the parties. Having considered the stand taken by both the parties, consent terms and orders passed by the learned Magistrate, we find that the case is covered by the law laid

¹ (2012) 10 SCC 303

down by the Supreme Court in the case of *Gian Singh* as pointed out. Not quashing the FIR will impede the settlement process and cause harassment to all parties.

7. Accordingly, the petition is allowed in terms of prayer clause (a).

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

JYOTI
PRAKASH
PAWAR

Digitally signed
by JYOTI
PRAKASH
PAWAR
Date: 2022.07.07
15:46:49 +0530