

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 3632 OF 2021**

Sahmim Bi Hakim Qureshi and anr. ...Petitioners

Versus

Afsana D/o Salim Shaikh Nazir and ors ...Respondents

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Mr. Navid Y. Memon for the Petitioners.
Mr. Rajesh L. Darap for Respondent No.1.
Mr. K.V. Saste, APP for the State.

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

DATED : 18 JULY 2022

P.C. :-

By this Petition, the Petitioners have sought the following reliefs.

(b) That this Hon'ble Court be pleased to quash and set aside F.I.R. No.297 of 2019 registered u/s.498(A) r/w. 34 of Indian Penal Code with Agripada Police Station, Mumbai against the Petitioners filed at the instance of the Respondent No.3 herein and on such terms and conditions as this Hon'ble Court may deem fit and proper.

(b1) That this Hon'ble Court be pleased to quash chargesheet against the Petitioners in CC No.1171/PW/2021 filed in MM 46th Court, Sewree, Mazgaon."

2. The reason for seeking quashing is the consent of Respondent No. 1/Complainant for the same. Petitioner No. 1 is the mother-in-law of Respondent No. 1, Petitioner No. 2 is her husband, Petitioner No. 3 is the brother of Petitioner No. 2 and Petitioner Nos. 4 and 5 are uncles of Petitioner No. 2.

3. The learned Counsel for the parties state that the parties have resolved the dispute and they jointly pray that the FIR and proceedings be quashed by consent of Respondent No. 1. The learned Counsel relied upon the decision of the Supreme Court in the case of *Gian Singh v/s. State of Punjab* ¹.

4. Notice was issued to Respondent No. 1. Respondent No.1 appeared on 11 July 2022 and stated that she has not engaged any Advocate. Therefore, Legal Services Authority was asked to appoint an Advocate to represent the cause of Respondent No. 1 and to file consent affidavit. The learned Counsel accordingly appears for Respondent No. 1 and states that he has interacted with Respondent No. 1, who is present in the Court and she has filed an affidavit of consent sworn before the Officer of this Court.

5. Respondent No. 1 filed the FIR alleging that she was subjected

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to mental and physical cruelty and demands of dowry by the Petitioners. In the affidavit filed by Respondent No.1, it is stated that the parties have entered into Memorandum of Understanding on 18 February 2021. Pursuant to which, the Petitioner No. 2 and Respondent No. 1 have obtained divorce and as per the terms and conditions, the ornaments etc. have been returned to Respondent No. 1. On these averments, the Respondent No. 1 has given consent. The Memorandum of Understanding and Khulanama are placed on record.

6. Considering the free and willing consent given by Respondent No. 1, case is made out to quash the FIR by consent as the case falls within the parameters laid down by the Supreme Court in the case of *Gian Singh v/s. State of Punjab*. If the FIR/Chargesheet is not quashed, it will be a needless harassment to the parties and it is not likely to result in conviction. The offence does not have large scale implications on the society. The Writ Petition is accordingly allowed in terms of prayer clause (b) and (b1).

12. Assistance rendered by the appointed Advocate is appreciated.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)