

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

CRIMINAL APPLICATION NO. 1033 OF 2022

1. Tauseef Ahmed Faiyaz Barmare
2. Khurshid Faiyaz Barmare
3. Faizan Ahmed Faiyaz Bamare
4. Sanober Abdul **Rahim** Panlekar
5. Abdul Rahim Abdul Sattar Panlekar ... Applicants

Versus

1. State of Maharashtra
2. Aziza Tauseef Ahmed Barmare ... Respondents

Mr. Sushrut Jadhwar for the Applicants.

Mrs. A. S. Pai, PP a/w Ms. M. H. Mhatre, APP for the Respondent No.1-State.

Mr. M. A. Shaikh for the Respondent No.2.

***CORAM: REVATI MOHITE DERE &
R. N. LADDHA, JJ.***

DATE : 14th NOVEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of

Corrected (in bold) vide order dated 2nd December, 2022.

the parties and the application is taken up for final disposal. Learned APP waives notice on behalf of the respondent no.1-State. Mr. M. A. Shaikh, learned counsel waives notice on behalf of the respondent no.2.

3. By this application, preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing and setting aside of the FIR registered vide C.R. No. 392 of 2017 with the Nehru Nagar Police Station, Mumbai, at the behest of the respondent no.2, for the alleged offences punishable under Sections 498A, 406 read with 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute, in as much as, the respondent no.2 has started residing with the applicant no.1, for the last 11 months.

4. Perused the papers. The applicant no.1 is the husband of the respondent no.2, the applicant no.2 is the **mother** in law, applicant no.3 is the brother in law, applicant no.4 is the sister in law respectively of the respondent no.2 and the applicant no.5 is the

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husband of the applicant no.4. The applicant no.1 got married to the respondent no.2 on 20th April, 2016 in Mumbai, as per Muslim Rights and Rituals. After marriage, the respondent no.2 started residing in her matrimonial house. As according to the respondent no.2, she was ill-treated and harassed by the applicants, she filed the aforesaid FIR, as against the applicants, alleging the aforesaid offences.

5. After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Metropolitan Magistrate, Vikhroli, Mumbai being Criminal Case No.1088/PW/2018. Apart from the said proceedings, the respondent no.2 had also filed DV proceedings as against the applicants in the Court of learned Metropolitan Magistrate, Mazgaon, Mumbai, being Case No.24/DV/2018.

6. During the pendency of the aforesaid proceedings, the parties amicably settled their dispute, and, as such entered into consent terms. The said consent terms are annexed as Exhibit 'B'

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at page no. 107 of the application.

7. It appears from the said consent terms, that the parties have amicably settled their dispute, on certain terms and conditions set out in the said consent terms. The respondent no.2 has started residing with the applicant no.1, for the last 11 months and hence, the respondent no.2 has no objection for quashing of the case. The respondent no.2 has also undertaken to withdraw the DV complaint, initiated at her behest. The said consent terms are dated 21st July, 2022 and have been duly signed by the respective parties and their advocates.

8. Learned counsel for the respondent no.2 has tendered an affidavit of the respondent no.2 dated 21st July, 2022 duly affirmed before the Assistant Registrar, High Court. In the said affidavit, the respondent no.2 has stated that she has decided to give one chance to their marriage by staying with the applicant no.1, on the terms and conditions mentioned in the consent terms. The respondent no.2 has also given her no objection for quashing

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of the said FIR. The respondent no.2 is present in person. On being questioned, she reiterates what is stated by her in the affidavit filed by her and in the consent terms. She has also tendered a photocopy of her Aadhar Card duly attested by her. Both, the consent affidavit of the respondent no.2, as well as, the photocopy of the Aadhar Card are taken on record. The respondent no.2 has been identified by her counsel and the learned APP has verified the original Aadhar Card.

9. Considering the nature of the dispute, the relation between the parties, the fact that the respondent no.2 has started residing with the applicant no.1, the consent terms entered into between them, the consent affidavit of the respondent no.2 and the judicial pronouncements of the Apex Court in *Gian Singh v/s. State of Punjab & Anr*¹ and *Narinder Singh & Ors. v/s. State of Punjab & Anr.*², there is no impediment in allowing the application.

10. The application is accordingly allowed and the FIR

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

registered vide C.R. No. 392 of 2017 with the Nehru Nagar Police Station, Mumbai and consequently, the proceeding pending before the learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai, being Criminal Case No. 1088/PW/2018 are quashed and set aside.

11. At this stage, we are informed that the Police had seized certain property i.e. articles, in the said case. Accordingly, we direct the Police to handover the said property to the respondent no.2 within one week from today. The applicants have no objection to handing over of the said property to the respondent no.2.

12. Rule is made absolute in the aforesaid terms and the application is disposed of accordingly.

13. All concerned to act on the authenticated copy of this order.

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

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