

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

CRIMINAL APPLICATION NO.1063 OF 2022

1. Mr Ajay Shivshankar Tiwari
Aged about 31 years, Occ: service
2. Mr Shivshankar Harishchandra Tiwari
Aged about 55 years, Occ: Retired,
3. Mrs Vimla Shivshankar Tiwari
Aged about 53 years, Occ: Housewife
4. Mrs Preeti Sumit Dubey
@ Preeti Shivshankar Tiwari
Aged about 25 years, Occ: Housewife
All above residing at 513, Victor
shelter, Motiram Mhatre Marg
Kandarpada, Dahisar(W), Mumbai-68 ... Applicants.

Versus

1. Mrs.Karishma Ajay Tiwari
@ Ms Karishma Bholenath Shukla
Aged 30 years, Occupation:Service
Residing at 603, Om Sai Building,
Indira Nagar, Maghwadi,
Jogeshwari East, Mumbai-400 060
2. The State of Maharashtra
(at the instance of MHB Police Station) ... Respondents.

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Mr Akhilesh Chaubay a/w Vedika Chaubey i/b AVC & Associates,
for the Applicant.

Mrs P.P. Shinde, APP for State.

Ms Hemangi Kuber, Advocate for respondent no.2.

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

DATE : 23 NOVEMBER 2022.

ORDER (Per R. N. Laddha, J.) :

Heard learned Counsel, for the parties.

2. Rule. The Rule is made returnable forthwith with the consent of and at the request of the learned Counsel for the parties.

3. By this Application, the Applicants seek to quash FIR No.121 of 2021 lodged with M.H.B.Colony Police Station, Mumbai, at the instance of respondent no.1/original Complainant for the alleged offences punishable under Sections 498-A, 504 r/w 34 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute and that Respondent No.2 has no objection to the quashing of the same.

4. Perused the papers. Applicant No.1 in this petition is the husband, Applicant Nos.2 and 3 are in-laws and Applicant No.4 is the sister-in-law of the Respondent No.1. It reveals from the record that Applicant No.1 got married to Respondent No.1 on 18.4.2017. After marriage, Respondent No.1 started residing at her matrimonial home with the Applicants. Post marriage,

Respondent No.1 has alleged harassment and ill-treatment by the Applicants, pursuant to which she lodged the FIR above against the Applicants.

5. When this Application for quashing the impugned FIR was placed before us, it was stated by the learned Counsel for the Applicants and Respondent No.1-original Complainant, that the dispute, which was a purely domestic dispute, has been amicably settled. They, in unison, submitted that it was agreed between the Applicant No.1 and Respondent No.1 that Applicant No.1 will pay a total amount of Rs.5,00,000/- on account of full and final settlement of all past, present and future claims of all kinds in lieu of dowry articles, stridhan, maintenance, present, past and future and also includes all claims of permanent alimony. They submitted that the parties would comply with the conditions mentioned in para 6 of the Affidavit of Respondent No.2 dated 25.8.2022. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. They submitted that Respondent No.1, in this petition, has also filed the Consent Affidavit. They submitted that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab & Anr.*¹ *And Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

1 (2012)10 SCC 303

2 (2014) 6 SCC 466

6. The learned APP for Respondent No.2 submits that appropriate orders may be passed.

7. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the cases of ***Gian Singh and Narinder Singh (Supra)***. The FIR arising from purely domestic dispute can be quashed by consent in light of the decision of the Hon'ble Supreme Court in ***Gian Singh (Supra)***, more particularly in light of the following observations;

“ But the criminal cases having overwhelmingly and predominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimonial relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim.”

(emphasis supplied)

8. Upon perusal of the record, it appears that the main reason for the filing of the FIR is a matrimonial dispute. The

allegations are personal. Given the settlement between the parties, Respondent No.1 will not support the prosecution case. The accusation would be flawed, and allowing criminal prosecution to continue would be an abuse of the process of the Court. It will also disrupt the compromise and interfere with the restoration of peace. Nothing fruitful will, therefore, come out of the prosecution in question. The parties wish to put their past behind. If the FIR is not quashed, the entire family will remain embroiled in litigation and prosecution, which will not serve the interest of justice. The dispute also does not have any ramifications on Society at large. Respondent No.1 is present before the Court and stated that she has no objection if the impugned FIR against the Applicants are quashed, given the settlement between them. On questioning, she reiterates what is stated by her in the affidavit. Respondent No.1 has been identified by her Counsel. Learned APP has verified the original Aadhar Card of Respondent No.1.

9. Considering these facts and circumstances, we see no difficulty in quashing the FIR. The criminal application, therefore, is made absolute in terms of prayer clause (A), which reads thus:

“A. This Hon’ble Court be pleased to quash the FIR bearing C.R.No. 121 of 2021 registered with M.H.B. Police Station.”

10. Learned Counsel for Respondent No.1 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.