

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

WRIT PETITION NO. 3739 OF 2021

Sharad Chandrashekhar Gaushal & Ors. ...Petitioners

Versus

State of Maharashtra & Anr. ...Respondents

Ms. Krupali H. Rajani for the Petitioners.
Ms. Sangeeta D. Shinde, APP for the Respondent-State.
Ms. Shivani Jadhav for Respondent No. 2.

**CORAM : PRASANNA B. VARALE AND
SURENDRA P. TAVADE, JJ.**

DATE : 17th FEBRUARY, 2022.

P.C. :

. Heard learned Counsel for the Petitioners, Respondent No. 2 and the learned APP for the Respondent-State.

2. The Petitioners have filed the present petition for seeking quashment of FIR No. 250/2020 registered with Kharghar Police Station, New Mumbai, for the offences punishable under Sections 498-A, 406, 323, 504, 506 r/w 34 of Indian Penal Code.

3. The facts giving rise to the present petition can be summarized as follows:

Petitioner No. 1 is a husband of Respondent No. 2. Petitioner

No. 2 is a father of Petitioner No. 1 and Petitioner No. 3 is a sister-in-law of Respondent No. 2. The marriage between Petitioner No. 1 and Respondent No. 2 was solemnized on 13th November, 2011 at Hyderabad. After marriage, Respondent No. 2 came to her matrimonial house at Kharghar. She started residing along with the Petitioners. It is alleged against the Petitioners that prior to the marriage, Petitioner No. 2 was demanding money as a dowry but with the help of the relatives, the amount of dowry was reduced and marriage was performed with the consent of the parties.

4. Petitioner No. 1 and Respondent No. 2 are blessed with child. It seems that within a short span of marriage, there was matrimonial discord between Petitioner No. 1 and Respondent No. 2. The parental relatives of Respondent No. 2 tried to save the marriage, but they failed. Therefore, Respondent No. 2 lodged the FIR against the Petitioners with Kharghar Police Station, which is sought to be quashed.

5. During the pendency of the criminal proceedings, Respondent No. 2 has filed a complaint for Domestic Violence bearing No. M. A. No. 299 of 2019 registered with Panvel Court. Similarly, she filed Hindu Marriage Petition No. 181 of 2019 under Section 9 of Hindu Marriage Act against Petitioner No. 1 in the Court of Civil Judge, Senior Division, Panvel. Petitioner No. 1 has also filed an application for divorce bearing No. 96 of 2021, which was subsequently

converted into petition under Section 13 B of Hindu Marriage Act, 1955. In the divorce petition, parties have amicably settled their dispute. Both Petitioner No. 1 and Respondent No. 2 have filed consent terms in Hindu Marriage Petition No. 96 of 2021. The copy of the same is produced on record at Exhibit- B. The consent terms show that both the parties have exchanged their jewellery and personal belongings. They also decided to withdraw all the cases filed against each other. Respondent No. 2 accepted Rs.15,00,000/- (Rs. Fifteen lakhs only) towards welfare of child and permanent alimony from Petitioner No. 1.

6. In view of the said consent terms, all the disputes are sorted out by the parties. Respondent No. 2 has also filed affidavit-in-reply, wherein she has affirmed that she does not want to continue with the FIR lodged with Kharghar Police Station against the Petitioners. Respondent No. 2 has categorically stated that she has no objection if the present writ petition is allowed for quashing the FIR. Respondent No. 2 was present in the Court. On specific query made to her, she submitted that she has filed the affidavit on her free will and wish. She further stated that she has no objection for quashment of FIR registered against the Petitioners.

7. In view of the above facts, we are of the opinion that the continuation of the proceedings against these Petitioners would be nothing but an act of futility and no purpose would be served by

keeping the proceeding pending before the Court.

8. Learned Counsel for the Petitioners relied on the observation of the Apex Court in the case of **Gian Singh V/s. State of Punjab & Anr., reported in 2012(10) SCC 303.**

9. Considering the above facts, we are of the opinion that the learned Counsel for the Petitioners made out a case for allowing the petition. Accordingly, the petition is allowed in terms of prayer clause (b) and disposed of accordingly.

(SURENDRA P. TAVADE, J.)

(PRASANNA B. VARALE, J.)