

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

CRIMINAL WRIT PETITION NO.3775 OF 2022

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|----|--|----------------|
| 1. | Abhinav Chandra | |
| 2. | Pratibha Saxena | |
| 3. | Prabhash Chander Saxena | ...Petitioners |
| | Versus | |
| 1. | The State of Maharashtra | |
| 2. | Nimisha Chandra alias
Nimisha Ram Dayal | ...Respondents |

Mr. Milind A. Kale, for the Petitioners.

Ms. A. S. Pai, P.P a/w Mr. J. P. Yagnik, A.P.P for the Respondent No.1–
State.

Ms. Sachi Lodha i/b Ms. Disha Shetty, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &
S. M. MODAK, JJ.***

DATE : 18th OCTOBER 2022

P.C. :

1. Heard learned counsel for the parties.
2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives

service on behalf of the respondent No.1–State. Ms. Lodha waives service on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the FIR bearing C.R. No. 275 of 2017 registered with the Govandi Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 406 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.2 and the petitioner Nos. 2 and 3 are the in-laws of the respondent No.2. It appears that the petitioner No. 1 and the respondent No.2 got married on 19th February 2012 at Arya Samaj Mandir, Khar, Mumbai, as per Arya Samaj Vedic rites and later again on 19th April 2012 at Lucknow. From the said wedlock, the couple has a daughter, who was born on 9th August 2013. According to the respondent No.2 as there was ill-treatment/harassment at the behest of the petitioners, she lodged the aforesaid C.R. with the Govandi Police

Station, Mumbai, alleging the aforesaid offences. After investigation, charge-sheet was filed in the said case and presently the case is pending before the learned Metropolitan Magistrate, 57th Court at Kurla, Mumbai. It appears that during the pendency of the proceeding, the parties amicably settled their dispute. We are informed that the petitioner No.1 and the respondent No.2 have filed a petition in the Family Court at Bandra, Mumbai, seeking divorce by mutual consent, under Section 13-B of the Hindu Marriage Act being M.J.Petition No. A – 3095 of 2017. In the said petition, consent terms entered into between the parties have been annexed. The said consent terms are at Exhibit – 'B', on page 177 of the petition. As per the said consent terms, the custody and guardianship of the minor daughter is to remain with the respondent No.2. It is also agreed by and between the parties, that the petitioner No.1 would pay an amount of Rs.30 lakhs by way of full and final settlement towards maintenance of his daughter in two installments. It appears that petitioner No.1 has paid a sum of Rs.15 lakhs to the respondent No.2. The same is not disputed by the learned counsel for the respondent No.2. We are

informed that the 2nd installment of Rs.15 lakhs, is due on 22nd November 2022. In the consent terms, it stated that the petitioners have handed over all the articles/streedhan to the respondent No.2. One of the term stipulated in the consent terms is that the respondent No.2 will give her no objection to the quashing of the case, as against the petitioners.

5. Learned Counsel for the respondent No. 2 has filed an affidavit of the respondent No.2 dated 11th October 2022, duly notarised before the Notary. In the said affidavit, the respondent No.2 has accepted entering into consent terms with the petitioner No.1. She has also given her no objection to the quashing of the aforesaid C.R. Respondent No. 2 is present in Court. On questioning, she re-iterates what is stated by her in her affidavit. Learned counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2 and the learned APP has also verified the

original aadhar card of the respondent No.2.

6. Considering the relations between the parties, the nature of dispute, the affidavit filed by the respondent No.2, the consent terms entered into between the parties and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab and Another*¹ and *Narinder Singh and Others vs. State of Punjab and Another*², there is no impediment in allowing the petition.

7. The petition is accordingly allowed and the FIR bearing C.R. No. 275 of 2017 registered with the Govandi Police Station, Mumbai, and consequently the proceeding pending before the learned Metropolitan Magistrate, 57th Court at Kurla, Mumbai, are quashed and set-aside.

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

8. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

S. M. MODAK, J.

REVATI MOHITE DERE, J.