

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

CRIMINAL WRIT PETITION NO.4076 OF 2021

Mr Huzaifa Feroz Khan
Aged 25 years, Occ:Business
R/at Room No.1, Nabi chawl,
Near Ajit Glass,S.V.Road,
Jogeshwari(W),Mumbai-400 102 ... Petitioner.

V/s

1. The State of Maharashtra
Through MIDC Police Station
vide CR no.736/2020)

2.XYZ

Aged about 21 years,Occ: service
residing at Room No.1, Nabi chawl,
Near Ajit Glass,S.V.Road,
Jogeshwari(W),Mumbai-400 102 Respondents.

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Mr Akram Kapoor, for the petitioner.

Mr Y.M.Nakhwa, APP for the State.

Mr Rumman Shaikh, a/w Ms Simran Shaikh for
Respondent No.2.

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

DATE : 30 NOVEMBER 2022.

Order (Per R.N.Laddha,J.)

At the outset, the learned Counsel for the Applicant seeks leave to amend to delete the name of the prosecutrix wherever it appears in the Application and replace it with the alphabet 'XYZ'. Leave granted.

2. Heard Mr Akram Kapoor, learned Counsel for the petitioner and Mr Y.M. Nakhwa, learned APP for Respondent No.1-State and Mr Rumman Shaikh for Respondent No.2.

3. Rule. The Rule is made returnable immediately, at the request of and with the consent of the learned Counsel for the parties. Learned Counsel for the Respondents waived service.

4. This is a petition for quashing FIR No.736 of 2020, registered at the MIDC Police Station, Mumbai, alleging the commission of offences punishable under Sections 376 and 417 of the Indian Penal Code.

5. Mr Akram Kapoor and Mr Rumman Shaikh, in unison, submitted that the parties have amicably settled the dispute. They submitted that due to a misunderstanding, Respondent No.2 lodged the impugned FIR against the Petitioner. Further, they submitted that the parties have got married to each

other on 19.3.2021 and Respondent No.2 does not wish to proceed further in the impugned FIR. It is submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. It is submitted that Respondent No.2 has also filed the Consent Affidavit dated 22.02.2021. They submitted that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh Vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

6. Learned APP for Respondent No.1 submits that appropriate orders may be passed.

7. It reveals from the record that Respondent No.2 had filed the Consent Affidavit duly affirmed before the Notary and a copy of the Aadhar Card duly attested by her. Respondent No.2 is present before the Court and prayed to quash the impugned FIR and consequent proceedings. Respondent No.2 reiterated the facts mentioned in her affidavits and stated that she lodged the impugned FIR due to misconception and misunderstanding. She has no grudge or grievance against the Petitioner, nor does she wish to proceed further in the impugned FIR. Respondent No.2 has been identified by his Counsel. Learned APP has verified the

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

original Aadhar Card of Respondent No.2 and the Marriage Certificate.

8. We have examined the facts of the present case in light of the law laid down by the Hon'ble Supreme Court in the case of *Gian Singh and Narinder Singh (supra)*. Based on the material on record, more particularly the affidavit of the second Respondent, it is seen that the FIR was lodged due to a misunderstanding between the parties. Admittedly, at the time of the alleged incident, Respondent No.2 was aged about 21 years. Since the parties amicably settled their dispute, and married each other, the possibility of conviction is remote and bleak. Further continuation of the proceedings arising out of the impugned C.R.No.736 of 2020 would be tantamount to the abuse of the process of law. Since Respondent No.2/first Informant will not support the allegations made by her in the impugned FIR, nothing fruitful will come out of the prosecution. Having regard to the peculiar facts and circumstances of the case, without entering into a detailed analysis and upon perusal of the affidavit of Respondent No.2, it is seen prima facie that no offence under Sections 376 and 417 of the Indian Penal Code are made out.

9. Considering the peculiar facts and circumstances, we see no difficulty in quashing the impugned FIR. Accordingly, the Application is allowed, and the impugned C.R.No.736 of 2020,

registered at MIDC Police Station, Mumbai, is quashed and set aside. The Rule is made absolute in the above terms.

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

11. Learned Counsel for Respondent No.2 to file his Vakalatnama, if not filed, within two weeks of the uploading of this order.

(R.N.LADDHA,J.)

(REVATI MOHITE DERE)