

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1119 OF 2021

Sanjay Madhukar Kedare And Ors. .. Applicants

v/s.

The State of Maharashtra & Anr. .. Respondents

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Mr. Milind A. Ingole, a/w. Ms. Aishwarya Darwhekar, for the Applicants.

Mr. J.P. Yagnik, APP, for State.

Mr. Pramod Kathane, i/b. Ms. Ashwini S. Datar, for Respondent No.2.

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CORAM: NITIN JAMDAR &
ARUN R. PEDNEKER, JJ.

DATE : 19 JULY 2022.

P.C:-

Heard the learned Counsel for the parties. Taken up for disposal.

2. The Applicants are seeking following prayer :

“(b) *This Hon’ble Court may kindly be pleased to call the record and proceeding from the JMFC Court at Manmad, Nashik final report/chargesheet No.97 of 2018 under Section 498(A), 406, 323, 504, 506 and 34 of the Indian Penal Code and*

RCC No.3 of 2019, JMFC Manmad Court at Nashik. After examining the legality of the final report/chargesheet be pleased to quash and set aside the same.”

The reason for seeking this relief is the consent given by Respondent No.2.

3. Applicant No.1 is the husband of Respondent No.2. Applicant No.2 is the brother-in-law. Applicant Nos. 3 and 4 are sister-in-laws. The learned Counsel for the Applicants and the Complainant jointly submit that the FIR be quashed with consent of Respondent No.2-Complainant. They rely upon the decision of the Supreme Court in the case of *Gian Singh vs. State of Punjab and Another*¹.

4. Respondent No.2 filed the FIR alleging that she was subjected to physical and mental cruelty and demands of dowry. The parties are before the Family Court where proceedings for divorce by mutual consent is pending. Parties have filed consent terms (amended) before the Family Court at Bandra, Mumbai Petition No.A-1646 of 2020. Two affidavits have been filed by Respondent No.2 where she has narrated the status of the proceedings before the Family Court that is now pending for orders. She has stated that Applicant No.1 has agreed to pay permanent alimony of Rs.2 lakhs. As regards the

¹ (2012) 10 SCC 303

inadequacy, Respondent No.2 has filed additional affidavit stating that Respondent No.2 is gainfully employed and is in better financial condition than Applicant No.1 and that is why she is accepting seemingly inadequate permanent alimony of Rs. 2 lakhs.

5. Having considered these facts, if the prosecution is not quashed, it will impede the settlement process and would be needless harassment to parties and not likely to result in conviction. The contention of the learned Counsel that the law laid down by the Supreme Court in the case of *Gian Singh* should be applied in the facts of the present case, is correct.

6. Accordingly, the application is allowed in terms of prayer clause (b).

7. The application is disposed of.

(ARUN R. PEDNEKER, J.)

(NITIN JAMDAR, J.)