

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

CRIMINAL APPLICATION NO. 1035 OF 2022

1. Deepak Rajaram Panchal
 2. Rajaram Babu Panchal
 3. Rajashree Rajaram Panchal
- ... Applicants

Versus

1. The State of Maharashtra
 2. Smt. Disha Deepak Panchal
(Nee Madhuri Namdev Mestry)
- ... Respondents

Mr. S. M. Gaonkar for the Applicants.

Mr. K. V. Saste, APP for the Respondent No.1-State.

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

DATE : 16th NOVEMBER, 2022

P.C. :-

. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith with the consent of the parties and the application is taken up for final disposal.

Learned APP waives notice on behalf of the respondent no.1-State.

The respondent no.2 is present in person and she waives notice on

behalf of herself.

3. By this application, preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR registered vide C.R. No. 217 of 2018 with the Bhandup Police Station, Mumbai, for the alleged offences punishable under Sections 377, 498A read with 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 applicant no.1 is a husband of respondent no.2 and applicant nos.2 and 3 are her in-laws. The applicant no.1 and respondent no.2 got married on 17th December, 2010 as per Hindu Vedic rites and rituals at Mumbai. After marriage, the respondent no.2 started residing at her matrimonial house. From the said wedlock, couple has a child, who is aged 11 years. According to the respondent no.2, as she was ill-treated and harassed by the applicants, she was constrained to file the aforesaid C.R. as against the applicants for the aforesaid

offences.

5. After investigation, charge-sheet was filed in the said case and the case is currently pending before the learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai being C. C. No. 14/PW/2019. Apart from the said proceedings, the respondent no.2 has also filed a petition before the Family Court at Bandra, which petition has been converted into the petition under Section 13B of the Hindu Marriage Act, since the parties have amicably settled their dispute.

6. Accordingly, consent terms entered into between the parties have been filed in the said petition before the Family Court, Bandra. The consent terms entered into between the parties annexed as Exhibit 'B' at page no. 62 of this application.

7. The respondent no.2 present in person, she states that she has filed a consent affidavit in the aforesaid application. The said consent affidavit is annexed as Exhibit 'C' at page 69 of this

application. In the said consent affidavit dated 11th September, 2022 duly affirmed before the Notary, the respondent no.2 has given her no objection to the quashing of the C.R./proceedings initiated at her behest. On questioning, she reiterates what is stated by her in the said consent affidavit. The respondent no. 2 is tendering a photocopy of her Aadhar Card duly attested by her. The same is taken on record and the learned APP has verified the original Aadhar Card.

8. Learned counsel for the applicants has tendered an affidavit of the applicant no.1 and the respondent no.2 dated 16th November 2022. The same is taken on record. In the said affidavit it is agreed by and between the parties that if the demand is made by the respondent no.2 for payment of fees of the child, the applicant no.1 shall give the said amount as claimed against the legitimate requirement. The applicant no.1 is present in person and he assures that he will comply with the said clause set out in the affidavit. In addition, the applicant no.1 has also tendered an affidavit dated 16th November 2022 duly notarised

before the Notary. In the said affidavit, the applicant no.1 Deepak has in para-2 stated as under:

“2. I state that in furtherance of the Consent Terms filed by myself and my wife before the Family Court at Bandra, Mumbai, annexed at Exhibit ‘B’ at Page 62 to the present Petition, I expressly declare and undertake that I shall strictly abide by the terms of access rights to my minor child i.e. Master Tanush, in addition hereto I further declare and undertake that I shall not take forcible access against the wish of my child i.e. Master Tanush.”

9. The applicant no.1 is present in person and he assures us that he would comply with the said clause. Statement accepted.

10. Considering the nature of dispute, the relationship between the parties, amicable settlement between them and judicial pronouncements of the Apex Court in *Gian Singh v/s. State of Punjab & Anr*¹ and *Narinder Singh & Ors. v/s. State of Punjab & Anr*.², there is no impediment in allowing the petition.

11. The application is accordingly allowed and the FIR registered vide C.R. No. 217 of 2018 with the Bhandup Police

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Station, Mumbai, is quashed and set aside and consequently the proceedings pending before the learned Metropolitan Magistrate, 53rd Court, Mulund, Mumbai being CC No.14/PW/2019 is also quashed and set aside.

12. Rule is made absolute in the above terms and application is disposed of accordingly.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.

BIPIN
DHARMENDER
PRITHIANI

Digitally signed by
BIPIN
DHARMENDER
PRITHIANI
Date: 2022.11.18
17:26:11 +0530