

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

CRIMINAL WRIT PETITION NO. 3062 OF 2018

1. Mr. Sukhdev Sharma,
Age 56 years, Occupation – Govt. Employee,
Presently Unemployed.
2. Mrs. Parvesh Sukhdev Sharma,
Age 55 years, Occupation – Housewife,
3. Ms. Preeti Sukhdev Sharma,
Age 26 years, Occupation – Unemployed.
4. Ms. Nisha Sukhdev Sharma,
Age 24 years, Occupation – Private Job.

All residing at – Sharma Niwas Above CM Mega
Bazar, Kathar By-pass, Solan,
Himachal Pardesh - 173213.

... Petitioners

Versus

1. The State of Maharashtra
(through the officer-in-charge
Andheri Police Station, Mumbai.)
2. Mrs. Rashmi Mukesh Sharma,
Residing at – Room No. 05, Naik Chawl,
Koldongari, Galli No.2, Sahar Road,
Andheri (West), Mumbai.

... Respondents

***WITH
CRIMINAL WRIT PETITION NO. 4125 OF 2022***

Mr. Mukesh Sukhdev Sharma,
Age 32 years, Occupation – Business,
Residing at – Sharma Niwas Above CM Mega
Bazar, Kathar By-pass, Solan,
Himachal Pardesh - 173213.

... Petitioner

Versus

1. The State of Maharashtra
(through the officer-in-charge
Andheri Police Station, Mumbai.)

2. Mrs. Rashmi Mukesh Sharma,
Residing at – Room No. 05, Naik Chawl,
Koldongari, Galli No.2, Sahar Road,
Andheri (West), Mumbai.

... Respondents

Mr. Pankaj Purwaj for the Petitioners.

Mr. Y. M. Nakhwa, APP for the Respondent No.1-State.

Mr. Mithilesh Singh for the Respondent No.2

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

DATE : 28th NOVEMBER, 2022

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

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith with the consent and at the request of the learned counsel for the parties.

Learned counsel for the Respondents waived service.

3. These writ petitions are for quashing FIR No. 378 of 2017, registered at Andheri Police Station, Mumbai, alleging commission of offences punishable under Sections 498A, 420 read with Section 34 of the Indian Penal Code, at the instance of Respondent No.2 Rashmi.

4. In Writ Petition No. 3062 of 2018, Petitioners No. 1 and 2 are the in-laws and Petitioners No. 3 and 4 are the sister-in-law of Respondent No.2.

5. In Writ Petition No. 4125 of 2022, Petitioner is the husband of Respondent No.2.

6. It revealed from the record that Respondent No.2 got married to Petitioner Mukesh on 1st January 2013. It is alleged in the FIR that by suppressing his first marriage, the Petitioner Mukesh had got married with Respondent No.2 and all other Petitioners were well aware of this fact. It is alleged that all the Petitioners financially cheated Respondent No.2's father. Further,

it is alleged that the Petitioners ill-treated and harassed Respondent No.2. Quashing is sought on the premise that the parties have amicably settled their dispute.

7. When these Writ Petitions for quashing the impugned FIR were placed before us, it has been jointly stated by the learned counsel for the Petitioners and Respondent No.2-Original Complainant that, the dispute, which was a purely domestic, has been amicably settled. They submitted that the parties had executed a Memorandum of Understanding (MOU) on 23rd August 2021, wherein they have amicably resolved and settled their disputes. It is mentioned in the MOU, the parties have agreed to file a mutual consent divorce petition before the Family Court, Mumbai and Petitioner Mukesh agreed to pay Rs.30,00,000/- to Respondent No.2 as a full and final settlement. They, on instructions, submitted that the parties would abide by the conditions mentioned in the said MOU. It is submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties.

8. Further, they submitted that Respondent No.2, in these petitions, has also filed consent affidavits. They submitted that the present case is squarely covered by the law laid by the Hon'ble Supreme Court in *Gian Singh v/s. State of Punjab & Anr*¹ and *Narinder Singh & Ors. v/s. State of Punjab & Anr.*²

9. The learned APP for Respondent No.1-State, submits that appropriate orders may be passed.

10. It is settled position of law that the FIR arising from purely domestic dispute can be quashed by consent. This aspect is highlighted in *Gian Singh (supra)*, in the following words:

“But the criminal cases having overwhelmingly and predominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimonial relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

despite full and complete settlement and compromise with the victim.”

(emphasis supplied)

11. Respondent No.2 is present before the Court and stated that she has no objection if the impugned FIR against the Respondents are quashed, given the settlement between them. On questioning, she reiterated what was stated by her in her affidavits. Respondent No.2 has been identified by her counsel. Learned APP has verified the original Aadhar Card of Respondent No.2. Respondent No.2 Rashmi and Petitioner Mukesh assured this Court that they will comply with the conditions stipulated in the aforesaid Memorandum of Understanding.

12. In view of the settlement between the parties, Respondent No.2 will not support the prosecution's case and allowing criminal prosecution to continue would be an abuse of the process of the Court. It will also disrupt the compromise and interfere with the restoration of peace. The parties wish to put their past behind. If the FIR is not quashed, the entire family will remain embroiled in litigation and prosecution, which will not serve the interest of

justice. The dispute also does not have any ramifications for society at large.

13. Considering these facts and circumstances, we see no difficulty in quashing the impugned FIR. Accordingly, both the Writ Petitions are allowed in the following terms:

ORDER

a) The Criminal Writ Petition Nos. 3062 of 2018 and 4125 of 2022 are allowed.

b) The FIR bearing C.R. No. 378 of 2017 registered at Andheri Police Station, Mumbai, as against the Petitioners and consequently the proceedings arising therefrom, are quashed and set aside.

c) Rule is made absolute in the above terms.

14. Learned counsel for Respondent No.2 to file his *Vakalatnama* in both these petitions, if not filed, within two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.