

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

CRIMINAL WRIT PETITION NO.5007 OF 2019

1. Sanjay Rampratap Yadav
2. Rampratap Ramnami Yadav
3. Vijay Harishankar Yadav
4. Nirmala Vijay Yadav
5. Shubhlaxmi Gupta ...Petitioners

Versus

1. The State of Maharashtra
2. Sarita Sanjay Yadav ...Respondents

Mr. Manish Rai, for the Petitioners.

Ms. S. D. Shinde, A.P.P for the Respondent No.1– State.

Mr. Kulmeet Singh Virk, for the Respondent No.2.

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

DATE : 7th 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 notice on behalf of the respondent No.1–State. Mr. Virk waives notice

on behalf of the respondent No.2.

3. By this petition, the petitioners seek quashing of the FIR bearing C.R. No. I-293 of 2014 registered with the Vitthalwadi Police Station, Thane, for the alleged offences punishable under Sections 498A, 494, 504, 323, 406 r/w 34 of the Indian Penal Code. Quashing was sought on the premise that the parties have amicably settled their dispute and that the petitioner No.1 (husband) and the respondent No.2 (wife) have started residing together.

4. Perused the papers. The petitioner No.1 is the husband of the respondent No.2. Petitioner No.2 is the father-in-law; petitioner No.3 is the brother-in-law and petitioner No.4 is the sister-in-law of the respondent No.2 and petitioner No.5 is the family friend of the petitioners. It appears that the respondent No.2 and the petitioner No.1 got married on 28th April, 2009 and that after marriage, respondent No.2 started residing at her matrimonial house. As there was discord/differences between the parties, respondent No.2 filed the

aforesaid FIR with the Vitthalwadi Police Station, Thane, alleging the aforesaid offences. After investigation, charge-sheet was filed, as against the petitioners and the case is presently pending before the learned Judicial Magistrate First Class, Ulhasnagar, being R.C.C. No. 596 of 2015. Learned Counsel for the petitioners and the learned counsel for the respondent No.2 state that the respondent No.2 has been living with the petitioner No.1 for the last seven years.

5. Learned counsel for the respondent No. 2 has tendered an affidavit of the respondent No.2 dated 7th October 2022, duly affirmed before the Assistant Registrar, High Court, Appellate Side. To the said affidavit is annexed a xerox copy of the aadhar card of the respondent No. 2. The said affidavit is taken on record. Respondent No.2 in the said affidavit has stated that she has resolved her dispute with the petitioners and that the petitioner No.1 and she are residing together peacefully for past 7 years. She has stated that from the said wedlock they have two children, viz. Ayush born on 9th February 2010 and Ayansh born on 22nd February 2021. She has further given

her no objection to the quashing of the proceeding initiated by her as against the petitioners. Respondent No. 2 is present in Court. On being questioned, she re-iterates what is stated by her in her affidavit.

6. Considering the nature of dispute, the relations between the parties, the fact that the respondent No.2 and the petitioner No.1 are living together, the affidavit filed by the respondent No.2 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. I-293 of 2014 registered with the Vitthalwadi Police Station, Thane, and consequently the proceeding pending before the learned Judicial Magistrate First Class, Ulhasnagar, being R.C.C. No. 596 of 2015, 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.