

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

CRIMINAL WRIT PETITION NO. 4190 OF 2022

1. Mr. Girish Tulsidas Chandwani,
Age: 35 Years, Occu: Service.
2. Mr. Tulsidas Sugnamal Chandwani,
Age: 72 Years, Occu: Retired.
3. Mrs. Daya Tulsidas Chandwani,
Age: 77 Years, Occu: Housewife,
All R/o: C-Block, 10/15, Geylord Chowk,
Pimpri, Pune-411 017. ... Petitioners

Versus

1. Police Inspector,
Pimpri Police Station, Dist. Pune.
2. State of Maharashtra
3. X.Y.Z.,
Age: 34 Years, Occ: Housewife,
R/o: 81/11, Torna Mukundnagar,
Pune-411 037. ... Respondents

Ms. Kanchan Phatak i/by Nitin Deshpande for the Petitioners.

Mrs. P. P. Shinde, APP for the Respondent Nos.1 and 2-State.

Ms. Rachana Harpale for the Respondent No.3.

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

DATE : 30th NOVEMBER, 2022

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

At the outset, learned counsel for the Petitioners seeks leave to amend to delete the name of the prosecutrix wherever it appears in this petition and replace it with the Alphabet XYZ. Leave granted. On 16th November 2022, leave was granted to amend to transpose Petitioner No.1/Original Complainant as party-Respondent No.3 and Petitioners as well as the Respondents to be renumbered.

2. Heard learned counsel for the parties.

3. 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.

4. This is a petition for quashing FIR No. 467 of 2019 registered at Pimpri Police Station, Pune and the proceedings

emanating therefrom, alleging the commission of offences punishable under Sections 376, 498A, 323, 506, 341 of the Indian Penal Code. Quashing is sought on the premise that the parties have amicably settled their dispute and that Respondent No.2 has no objection to the quashing of the impugned FIR. It is alleged that the Petitioners have ill-treated and harassed the complainant/ Respondent No.3 due to a demand for dowry. Petitioner No.1 had sexually assaulted her with a shaving trimmer. Petitioner No.1 is the son of Petitioners No. 2 and 3 and husband of Respondent No.3.

5. Ms Kanchan Phatak and Ms Rachna Harpale, in unison, submitted that the parties have amicably settled the dispute. They submitted that the parties have decided to withdraw all the allegations of their free will without any pressure. They invited the attention of this Court to the affidavit filed by Respondent No.3. They submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. 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 v/s. State of Punjab & Anr*¹ and *Narinder Singh & Ors. v/s. State of Punjab & Anr.*²

6. Learned APP for Respondents No. 1 and 2 submits that appropriate orders may be passed.

7. It revealed from the record that Respondent No.3 had filed the consent affidavit duly affirmed before the Notary and a photocopy of the Aadhar Card duly attested by her. It revealed from the record that the dispute is pre-dominantly a matrimonial/domestic dispute. Upon perusal of the affidavit, it is seen that Respondent No.3 has no grudge or grievance against the Petitioners, nor does she wish to proceed further in the impugned FIR.

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

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

Gian Singh and ***Narender Singh (supra)***. Admittedly, Respondent No.3 is the wife of Petitioner No.1 Girish, and at the time of the alleged incident, she was aged about 30 years.

9. Respondent No.3 is present before the Court. On questioning, she reiterated what was stated by her in the affidavits. She further stated that due to some misunderstanding she lodged the impugned FIR against the Petitioners. Respondent No.3 has been identified by her counsel. Learned APP has verified the original Aadhar Card of Respondent No.3.

10. Since the parties amicably settled their dispute, the possibility of conviction is remote and bleak. Further continuation of the proceedings arising out of the impugned C.R. No. 467 of 2019 would be tantamount to the abuse of the process of law. Since Respondent No.3 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.3 and the papers, it is seen that no offence under Section 376 of the Indian Penal Code is made out against the Petitioner No.1, who is the husband of Respondent No.3.

11. Considering the peculiar facts and circumstances, we see no difficulty in quashing the impugned FIR. Accordingly, the Petition is allowed, and the impugned C.R. No. 467 of 2019 registered at Pimpri Police Station, Pune and the proceedings therefrom, are quashed and set aside.

12. Rule is made absolute in the above terms.

13. Learned counsel for Respondent No.3 to file his *Vakalatnama*, if not filed, within two weeks of the uploading of this order.

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

R. N. LADDHA, J.

REVATI MOHITE DERE, J.