



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1638 OF 2021

WITH
INTERIM APPLICATION NO 4657 OF 2022

Ankit Sinha and others ... Petitioners

Versus

Riya @ Avantika Manoj Kumar and others ... Respondents

WITH
WRIT PETITION NO. 1003 OF 2021

Binita Sahay and others ... Petitioners

Versus

Riya @ Avantika Manoj Kumar and others ... Respondents

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Mr. D.S. Mhaispurkar instructed by Mr. Vivek Babar for the Petitioners.
Ms. M.M. Deshmukh, APP for the State.
Mr. Sahil Mahajan for Respondent No.1.

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CORAM : NITIN W. SAMBRE &
N.R. BORKAR, JJ.

DATED : 9 OCTOBER 2023

P.C. :-

1. Leave to amend the prayer clause. Amendment to be carried out forthwith.
2. The petitioner no.1 – Ankit Sinha was married to respondent no.1-complainant. Out of matrimonial discord and ill treatment, an

offence being Crime No.318 of 2019 punishable under Sections 376, 377, 498(A), 354, 509, 323, 506(II), 420, 406 r/w. 34 of Indian Penal Code, came to be registered.

2. Petitioner nos.2, 3 and 4 in Writ Petition No.1638 of 2021 are mother, father and sister respectively of petitioner No.1. Petitioner Nos.1 to 5 in Writ Petition No.1003 of 2021 are the relatives of petitioner no.1.

3. We are informed that petitioner no.1 – Ankit Sinha has settled in Australia. The parties to the petitions have arrived at the settlement and the settlement deed to that effect is drawn which was executed at New Delhi on 3 June 2023. Out of the agreed one time alimony of Rs.1 crore, the respondent no.1-complainant through the learned APP on verification admits that she has received Rs.30 lakhs by way of demand draft and Rs.10 lakhs in her bank account. Learned Counsel for petitioners on instructions specifically stated that the balance amount as has been agreed shall be paid. The said statement is accepted as an undertaking to this Court.

4. In the aforesaid background, we have perused the consent affidavit filed by respondent No.1-complainant. The parties hereto have agreed for divorce by mutual consent under Sections 13B(1) & (2) of the Hindu Marriage Act and we are informed that petition to that effect is pending for consideration.

5. Both the parties have agreed that they shall be withdrawing all complaints, lodged to the police authorities, including complaints to authorities at Australia forthwith. This statement is since jointly made, the same is also accepted.

6. In the aforesaid backdrop, when confronted through the learned APP, respondent No.1 has agreed to have voluntarily executed, the affidavit of consent thereby agreeing for quashing of the criminal prosecution, out of her own free will.

7. In view of the above background and law laid down by the Hon'ble Apex Court in the matter of *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², no purpose will be served in keeping the present proceedings pending against the petitioners, particularly having regard to the undertaking given by the petitioners as referred to hereinabove, so also by the respondent no.1. As such, both the Writ Petitions are allowed in terms of prayer clause (a), subject to costs of Rs.10,000/- by each of the petitioner to the Association of Parents of Mentally Retarded Children, in State Bank of India having Account No.00000010884930648, IFSC Code- SBIN0009056. All the petitioners shall produce the copy of the receipt of payment of aforementioned cost in the Registry within a period of six weeks from today, failing which the proceedings shall stand revived.

8. Both the Writ Petitions are disposed of. Interim Application also stands disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466