

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

CRIMINAL WRIT PETITION NO. 1161 OF 2023

1. Mr. Girish Laxmichand Gala
Aged about 53 yrs, Adult, R/At
Flat No. 20, Parmeshwar Villa CHS
Ltd., 4th Road, Plot No. 59A,
TPS-III, Golibar, Santacruz (East),
Mumbai – 400 055.
2. Mrs. Harsha Jayesh Gala Aged
about 57 yrs, Adult, r/at Flat No. 304,
New Krishna Niwas, Roshan nagar,
Above Vasai Vikas Sahakari Bank,
Borivali (West), Mumbai-400092.
3. Mrs. Lilavati (Leela) Savla
Aged about 55 yrs Adult, R/at Flat
No. A3/102, Poonam Park, Dinshaw Petit
Road, Near Lalbaug Industrial Estate, Lalbaug,
Parel, Mumbai-400012.
4. Mr. Bhavya Girish Gala Aged about 26 yrs
5. Ms. Hetvi Girish Gala Aged about 23 yrs

Both Adults, residing at Flat No. 20,
Parmeshwar Villa CHS Ltd., Plot No.
59A, TPS-III, 4th Road, Golibar, Santacruz
(East), Mumbai- 400 055. }Petitioners/Accused.

Versus

1. The State Of Maharashtra
(Through Vakola, Police Station.) }
2. Mrs. Rajul Girish Gala, Age-36yrs
nee Ms. Rajul Jayantilal Savla Adult,
Indian Inhabitant, resident of
Flat No. 20, Parmeshwar Villa CHS
Ltd., Plot No. 59A, TPS-III 4th Road,
Golibar, Santacruz (East),
Mumbai – 400 055. }Respondents

Ms. Akash Singh i/b Mr. A.M. Sarogi, for the Petitioner.

Mr. S.D. Shinde, APP for the Respondent No.1/State.

Mr. Rahul Jain for the Respondent No. 2

**CORAM : SUNIL B. SHUKRE AND
M.M. SATHAYE, JJ.**

Date : 27th APRIL, 2023.

JUDGMENT (Per M.M.SATHAYE, J.):

1. Rule. Rule made returnable forthwith. Learned APP waives

service for Respondent No. 1/State. Learned Counsel for Respondent No.2/complainant waives service. Taken up for final hearing with consent of parties.

2. By this petition filed under Article 226 of the Constitution of India the Petitioners/accused are seeking to quash by consent, a crime registered under FIR No. 67 OF 2017 registered with Wakola Police Station Mumbai and consequent Criminal case No. PW/956/2018 pending in the Court of Metropolitan Magistrate 71st Court at Bandra, Mumbai for offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. Learned counsels for the Petitioners and Respondent No. 2/complainant jointly state that now the matter is amicably settled and Respondent No. 2 has filed consent affidavit. Learned APP for the State has not seriously opposed the settlement and quashing of crime in this petition.

4. Perusal of the FIR dt. 08.02.2017 shows that Petitioner No. 1 is husband (in second marriage), Petitioner No. 2 and 3 are sisters-law

and Petitioner Nos. 4 & 5 are step children of Respondent No. 2. It is alleged by her that during the period from January 2013 till filing of FIR, the Petitioner used to compel her watch pornographic films and used to ask her to keep physical relations with other persons. It is further alleged that other Petitioners alongwith Petitioner No. 1 subjected her to physical and mental torture including taunting by sisters in law and beating at the hands of Petitioner No. 1 and Petitioner No. 4.

5. Perused the consent-affidavit now filed and affirmed by Respondent No. 2 on 15.02.2013. It is stated therein by her that in a Civil Suit No. 194 of 2021 filed by her in City Civil Court at Dindoshi, Goregaon, Mumbai, parties have filed consent terms and various terms therein are complied with by parties and therefore she has no objection if the impugned FIR filed by her is quashed.

6. All the Petitioners & the Respondent No. 2 / complainant are present personally today in the Court and are identified by their respective advocates. On our inquiry, they stated that they have settled the matter voluntarily, without any pressure or coercion.

Copy of said consent terms are placed on record.

7. From the above facts and circumstances including consent terms, it appears that the underlying dispute from which the alleged crime has arisen, is matrimonial and private in nature involving right to property etc. As such, this Court is of the considered view that if the parties are settling amicably, no public policy will be offended if such settlement is allowed and the crime is quashed. Apart from that this is a case involving an unwilling witness / prosecutrix and therefore even if Trial is permitted it will be an exercise in futility.

8. In the result, we pass following order:

1. The petition is allowed in terms of prayer clause (a), which reads as under :-

“(a) That this Hon’ble Court be pleased to issue appropriate order and direction directing the quashing of the FIR being FIR No.67 of 2017 registered under the provisions of Sections 498A, 323, 504, 506, 34 of IPC registered by the respondent no.1 at the instance of the respondent no.2 and as also the case arising

out of the same being Criminal Case No.PW/956/2018 pending to the file of the Hon'ble Metropolitan Magistrates 71st Court at Bandra, Mumbai on such terms as this Hon'ble Court may deem fit and proper.”

2. This is subject to the condition that the petitioners together shall deposit an amount of Rs.15,000/- and respondent no.2 shall deposit an amount of Rs.5,000/-, within four weeks from today, in the account of Maharashtra State Legal Services Authority, Mumbai, failing which this order shall stand cancelled automatically and the matter shall be listed before this court for further directions.

3. Registrar (Judicial-II) to verify compliance and close the matter, if compliance is made

(M.M.SATHAYE, J.)

(SUNIL B. SHUKRE, J.)