

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

CRIMINAL APPLICATION NO.76 OF 2020

- | | | |
|----|--|----------------|
| 1. | Israr Haisiyat Shaikh | |
| 2. | Haisiyat Gulzar Ali Shaikh | |
| 3. | Shahnaz Asgar Ali Shah @
Shahnaz Asgar Shaikh | |
| 4. | Asgar Shaikh S/o. Taufiq Shaikh | |
| 5. | Ishtiyaque Shaikh | |
| 6. | Nasim Bano Abdul Kalam Shaikh | ...Applicants |
| | Versus | |
| 1. | Reshma Israr Shaikh | |
| 2. | State of Maharashtra | ...Respondents |

Mr. Ranjit Singh, for the Applicants.

Ms. Reshma Israr Shaikh, Respondent No.1 is present in-person.

Ms. P. P. Shinde, A.P.P for the Respondent No.2 – State.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 27th FEBRUARY 2023

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. Respondent No.1,

who is present in-person waives notice. Learned A.P.P waives notice on behalf of the respondent No.2–State.

3. By this application, preferred under Section 482 of the Code of Criminal Procedure, the applicants seek quashing of the FIR bearing C.R. No.291 of 2018, registered with the Wadala Truck Terminal Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code. Quashing is sought on the premise, that the parties have amicably settled their dispute.

4. Perused the papers. The applicant No.1 is the husband of the respondent No.1; the applicant No.2 is the father-in-law of the respondent No.1; applicant No.3, is the sister-in-law of the respondent No.1; applicant No.4 is the husband of the applicant No.3 and applicant Nos.5 and 6, are the brother-in-law and sister-in-law respectively of the respondent No.1. It appears that the applicant No.1 and the respondent No.1 got married on 27th November 2016

and from the said marriage the couple has one issue. It appears that they separated on 11th October 2017, pursuant to which, the respondent No.1 filed the aforesaid FIR as against the applicants, alleging the aforesaid offences. Domestic violence proceedings were also initiated by the respondent No.1 as against the applicants. It also appears that the applicant No.1 had filed a restitution petition before the Family Court at Bandra, Mumbai.

5. In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same and accordingly entered into consent terms. The consent terms entered into between the parties are at Exhibit – ‘B’, on page 15 of the aforesaid application. It appears that the parties have already divorced each other and the applicant No.1 had paid Rs.1,25,000/- to the respondent No.1, by way of final settlement. It appears that post the said divorce, the respondent No.1 has got re-married and that her present husband is looking after her as well as her son's wellbeing, including the child's

education. The respondent No.1 has filed her affidavit dated 24th February 2020 duly affirmed before the Assistant Registrar, High Court, Appellate Side. In the said affidavit, the respondent No.1 has stated that she does not wish to proceed against the applicants and as such has no objection to the quashing of the proceeding. Respondent No.1 is present in Court. On questioning, she re-iterates what is stated by her in her affidavit. She states that she has got re-married and that she and her son are being well take care of by her husband. She further states that her husband is even taking care of the educational expenses and all other needs of her son and as such she has no objection to the quashing of the FIR. Respondent No.1 has tendered a self attested photocopy of her aadhar card. The same is taken on record. Learned APP has verified the original aadhar card of the respondent No.1.

6. Considering what is stated aforesaid, the nature of dispute, the relations between the parties, the consent terms entered into between them, the re-marriage of the respondent No.1 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 application.

7. The application is accordingly allowed and the FIR bearing C.R. No.291 of 2018, registered with the Wadala Truck Terminal Police Station, Mumbai, is quashed and set-aside.

8. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466