

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

CRIMINAL WRIT PETITION NO. 1536 OF 2022

Sameer V Shah

Age: 31 Years, Occu: Service

Currently residing at:

411, Jay Ambe Building, Don Lane,
Near Little Flower School, Pachole
Road, Nalla Sopara E,
Palghar 401209.

... Petitioner

Versus

1. Shilpa S Poojary

Age: 29 Years, Occ: Service

Currently residing at:-

F 45, Bhagwati Chawl,
Chincholi Bunder Road,
Nr Mohan Hotel, Malad W,
Mumbai – 400 064.

2. The Senior Inspector of Police

Malad Police Station,
Mumbai.

3. State of Maharashtra,
through the Office of the
Government Pleader, High Court,
Bombay.

... Respondents

Mr Vishal Kolekar i/by Mr Neeraj B. Patil for the Petitioner.

Mr Kamlesh Mishra for the Respondent No.1.

Mr A. R. Kapadnis, APP for the Respondents No.2 and 3.

***CORAM: NITIN W. SAMBRE &
R. N. LADDHA, JJ.***

DATE : 21 FEBRUARY 2023.

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

Heard learned counsel for the parties.

2. Rule. The Rule is made returnable forthwith, with the consent of and at the request of the learned counsel for the parties.

3. By this petition, the Petitioner seeks to quash the FIR No.762 of 2020, lodged with Malad Police Station, Mumbai, at the instance of Respondent No.1/original Complainant for the alleged offence punishable u/ss 498-A, 323, 504, 506 and Sections 3 and 4 of the Dowry Prohibition Act, 1961. Quashing is sought on the premise that the parties have amicably settled their dispute and that Respondent No.1 has no objection to the quashing of the impugned FIR.

4. Perused the papers. Petitioner is the husband of Respondent No.1. After marriage, Respondent No.1 started residing at her matrimonial home with the Petitioner. Since marital discord/differences post-marriage, Respondent No.1 lodged the FIR described above, vide C.R.No762 of 2020, with Malad Police Station, Mumbai, against the Petitioner. Allegations of ill-treatment and harassment were made.

5. When this writ petition was placed before us, it was stated by both the learned Counsel for the Petitioner and Respondent No.1 that the dispute, which was a purely domestic dispute, had been amicably settled. They submitted that Petitioner and Respondent No.1 have decided to be separated, and as such, they agreed to part peacefully and gracefully by dissolving the marriage. Accordingly, Consent Terms were drawn and filed in the Family Court at Bandra, Mumbai, vide Petition No.1000 of 2021. A copy of the Consent Terms is annexed to this petition. The parties assure that they will abide by the terms and conditions in the Consent Terms. Respondent No.1 also filed the consent Affidavit. The learned Counsel for Respondent No.1 and Petitioner submitted that the parties have amicably settled their dispute and have decided to withdraw all the allegations and the litigations pending by or against each other and separate amicably. Respondent No.1 has no

objection to quashing the impugned FIR.

6. Respondent No.1 is present before us. On questioning, she reiterates what was stated by her in her Affidavit and further states that she has no objection to the quashing of the impugned FIR. Respondent No.1 has been identified by her Counsel. We are informed that in the impugned FIR, the charge sheet is not yet filed. The learned Counsel for the parties 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 *Gian Singh Vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

7. The FIR arising from purely domestic disputes can be quashed by consent in light of the decisions of the Hon'ble Supreme Court in the above-referred cases. The dispute being matrimonial is a private dispute. Given the settlement between the parties, Respondent No.1 will not support the prosecution case. The accusation would be flawed, and allowing criminal prosecution to continue would be an abuse of the process of the law. It will also disrupt the compromise and interfere with the restoration of peace. Nothing fruitful will, therefore, come out of the prosecution in

1 (2012)10 SCC 303.

2 (2014) 6 SCC 466.

question. The parties wish to put their past behind them. The dispute also does not have any ramifications on society at large.

8. Considering the nature of the dispute, the Consent Terms entered into between the parties, the consent Affidavit of Respondent No.1 and the judicial pronouncements of the Apex Court in *Gian Singh and Narinder Singh* (supra), there does not impede allowing the petition.

9. Petition is, accordingly, allowed and the FIR bearing C.R.No.762 of 2020, registered with Malad Police Station, Mumbai, *qua* the Petitioner, is quashed and set aside.

10. The Rule is made absolute in the above terms without any order for costs.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]