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

Cr. Writ Petition NO. 940 OF 2022

Shishir Shyamlal Betharia And Anr ...Petitioners
V/s.
The State Of Maharashtra And Anr ...Respondents
WITH

Cr. Writ Petition(ST) NO. 13826 OF 2023

Kshitij Shishir Betharia ...Petitioner
V/s.
State Of Maharashtra And Anr.
Karansingh B Rajput ...Respondents

Ms.Supriya Kak for the Petitioner in WP/940/2022

Mr. Karansingh Rajput for the Petitioner in WPST/13826/2023

Mr. Ajay Patil, APP for the State.

Mr. Aashish Satpute for the Respondent No.2 in Both.

**CORAM : NITIN W. SAMBRE &
RAJESH S. PATIL, JJ.**

DATED : 6th SEPTEMBER, 2023

P.C.:

1. The prayer in both writ Petitions is for quashing of the F.I.R. in Crime No.0199 of 2021 dated 26th October, 2021 registered with Gangapur Police Station, Nashik7 City for the offences punishable under Sections 323, 406, 498-A, 504, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The genesis of the offences is the cruelty and ill-

treatment meted out to the Complainant by the Petitioners, after marriage of Respondent-Complainant with one of the Petitioners on 8th April, 2017.

3. Out of matrimonial discord the Complaint came to be lodged which has resulted into aforesaid offence being registered.

4. Apart from the aforesaid criminal prosecution, we are informed that the parties are litigating before the Family Court, Bandra, Mumbai, in which they have tendered consent terms duly executed on 12th May, 2023 between the husband and wife. The parties have agreed in the said consent terms that an amount of Rs. 1.75 Crore to be deposited by the Petitioner/husband towards one time alimony payable to the Respondent-Complainant in the said proceedings. After the present proceedings are disposed of thereby allowing prayer for quashing by consent, the said amount can be withdrawn by the Respondent-Complainant. The photocopy of the consent terms is also taken on record.

5. We have requested learned APP to verify from Respondent No.2-Complainant as to whether such act on part of the Respondent-Complainant is a voluntary one, to which she has stated that the consent was given voluntarily.

6. In view of stand taken by the respondent prosecution against the Petitioner cannot be taken to its logical end. The interest of Respondent-Complainant is also secured by virtue of the one time alimony agreed to be paid to her, which is already deposited in the Family Court, Bandra, Mumbai.

7. As the Respondent No.2 has voluntarily and willingly

consented for quashing of the offence against the Petitioners, no purpose will be served in keeping the present proceedings pending. Having regard to law laid down by the Apex Court in the matter of *Gian Singh vs. State of Punjab and Another* reported in *(2012) 10 SCC 303* and *Narinder Singh & Ors. Vs State of Punjab & Anr.* reported in *(2014) 6 SCC 129*, we deem it appropriate to allow the present proceedings in terms of prayer clause (a) subject to payment of cost of Rs.50,000/- by each of the Petitioner.

9. The cost shall be paid to the Janseva Foundation to be deposited in the Bank of Maharashtra Account No.20076764639, IFSC Code MAHB0000102, within four weeks from the date of receipt of the order and a receipt to that effect be placed on record within a week thereafter, failing which the order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Petitioners in accordance with law.

10. Needless to clarify that once the present order is signed by this Court, it shall be open for the Complainant to withdraw the amount of one time alimony.

11. Writ Petitions are disposed of in the aforesaid terms.

12. Learned counsel for the Respondent-Complainant is at liberty to file Vakalatnama.

(RAJESH S. PATIL, J.)

(NITIN W. SAMBRE)