

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

CRIMINAL WRIT PETITION NO. 1727 OF 2022

Jayesh Panchamlal Jaiswal & Anr. ...Petitioners
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Sagar Tambe i/b Ms. Priyanka Sangare for the Petitioners

Mr. Y. M. Nakhwa, A.P.P for the Respondent No.1-State

Ms. Vrushali Patil for the Respondent No. 2

PSI Mr. Pandit, from Malad Police Station, is present

**CORAM : REVATI MOHITE DERE &
SANDEEP V. MARNE, JJ.
MONDAY, 13th 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. Learned

A.P.P waives notice on behalf of the respondent No.1–State.

Ms. Vrushali Patil waives notice on behalf of the respondent No.2.

3 By this petition preferred under Article 226 of the Constitution of India, the petitioners seek quashing of the FIR registered vide C.R. No. 95/2017 with the Malad Police Station, Mumbai, for the alleged offence punishable under Sections 498A, 323, 506 r/w 34 and consequently, the proceeding pending before the learned Metropolitan Magistrate at Borivali being Case No. PW/1034/2018. Quashing is sought on the premise that the petitioners and the respondent No. 2 have amicably settled their dispute.

4 Perused the papers. The petitioner No. 1 is the husband of the respondent No. 2 and the petitioner No. 2 is the mother-in-law of the respondent No. 2. It appears that the petitioner No. 1 and respondent No. 2 got married on 23.05.2015, after which, the respondent No. 2 started residing in her matrimonial house. As

there was marital discord and as according to the respondent No. 2, she was ill-treated and harassed by the petitioners, she filed the aforesaid FIR as against the petitioners alleging the aforesaid offences. In addition to the aforesaid proceeding, it appears that the respondent No. 1 filed DV proceeding before the concerned Court and Marriage Petition in the Family Court.

5 It appears that in the interregnum, during the pendency of the aforesaid proceedings, the parties amicably settled the dispute and entered into Consent Terms, which were filed before the National Lok Adalat, which was held on 01.08.2021 by the Family Court, Thane.

6 Learned counsel for the parties have tendered a photocopy of the Consent Terms tendered before the National Lok Adalat. The same is taken on record. From the said Consent Terms, it appears that the parties i.e. the petitioners and respondent No. 2 have settled their dispute and have withdrawn all the allegations

made against each other. By way of one time settlement, the petitioner No.1 has agreed to pay to the respondent No. 2, a sum of Rs. 8,30,000/- which also includes the arrears of maintenance. It is not in dispute that the said amount has been deposited by the petitioner No. 1 in the Family Court, Thane. It is also agreed that pursuant to the said settlement, the respondent No. 2 gives her no objection to the quashing of the FIR/proceedings initiated at her behest.

7 Learned counsel for the respondent No. 2 states that respondent No. 2 has also filed her affidavit which is at page 41 of the petition, duly affirmed before the Assistant Registrar, High Court. In the said affidavit, the respondent No. 2 has stated that the petitioner No. 1 and respondent No. 2 have filed Consent Terms in Marriage Petition No. A-502/2019, pending before the Family Court at Thane and the same has been taken on record of the Court through the National Lok Adalat, Thane, and that, Rs.8,30,000/- have been deposited by the petitioner No. 1 in the Family Court.

Respondent No. 2 has also given her no objection for withdrawal of the proceedings initiated at her behest. We are informed that the DV proceeding initiated by the respondent No. 2 have been withdrawn by the respondent No. 2 on 22.07.2022, so also the other proceedings.

8 The respondent No. 2 is present in Court. On being questioned, she reiterates what is stated by her in her affidavit. She states that she has received her *Streedhan* from the petitioners and as such, has no objection to the quashing of the proceedings. It appears that the respondent No. 2 will be entitled to receive an amount of Rs. 8,30,000/- deposited by the petitioner No. 1 on the decree of divorce being passed. Respondent No. 2 has been identified by her counsel. Learned counsel for the respondent No. 2 has also tendered a photocopy of the Aadhar Card, duly attested by the respondent No. 2. The same is taken on record. The original Aadhar Card of the respondent No. 2 is verified by the learned A.P.P.

9 Considering the nature of dispute, the relation between the parties, the amicable settlement arrived at between the parties, the Consent Terms entered into between them, the affidavit of the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in *Gian Singh vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. vs. State of Punjab & Anr.*², continuation of the proceeding, would be an abuse of the process of law. Hence, there is no impediment in allowing the petition.

10 The petition is accordingly allowed. The FIR bearing C.R. No. 95/2017 registered with the Malad Police Station, Mumbai, as against the petitioners and consequently, the proceeding pending before the learned Metropolitan Magistrate, Borivali being Case No. PW/1034/2018, are quashed and set-aside.

11 It is made clear that respondent No.2 will be entitled to receive a sum of Rs. 8,30,000/- with accrued interest, if any, on the

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466

decree of divorce being passed as per the Consent Terms entered into between the parties.

12 Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

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

SANDEEP V. MARNE, J.

REVATI MOHITE DERE, J.