

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

WRIT PETITION NO.2143 OF 2022

Aditya Arun Agarwal & Ors. ... Petitioners.

Versus

1. The State of Maharashtra & Anr.... Respondents

...

Mr Shivraj Kunchge, Advocate for the petitioners.

Smt MM Deshmukh, APP for State.

Mr Arsh Misra, Advocate for respondent no.2/Complainant.

...

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

DATE : 8 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 petitioners seek to quash FIR No.351/2020 lodged with D.B.Marg Police Station, Mumbai, at the instance of respondent no.2 for the alleged offences punishable

under Sections 498-A, 406, 506, 323 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. Petitioner No.1 is the husband of Respondent No.2, Petitioner No.2 is the mother, and Petitioner No.3 is brother and Petitioner No.5 is the maternal grandfather of Petitioner No.1. Petitioner No. 4 is the wife of Petitioner No.3.

It reveals from the record that Petitioner No.1 got married to Respondent No.2 on 25.1.2019. After marriage, Respondent No.2 started residing at her matrimonial home with the Applicants. Post marriage, Respondent No.2 has alleged harassment and ill-treatment by the Petitioners, pursuant to which she lodged the FIR above against the them.

5. During the pendency of the aforesaid FIR, we are informed that the parties have resolved their dispute amicably. The Petitioner No.1 and Respondent No.2 agreed to dissolve their marriage and separate amicably. Learned Counsel for Respondent No.2 has tendered an affidavit dated 20.1.2023 duly affirmed before the Notary and a photocopy of the Aadhar Card duly attested by Respondent No.2. The affidavit of Respondent No.2 and the photocopy of her Aadhar Card is taken on record. Respondent No.2 has been identified by her Counsel. The learned APP has verified the original Aadhar Card. In the said affidavit,

Respondent no.2 has given her no objection to the quashing of the aforesaid FIR. Respondent No.2 is present in person. On being questioned, she reiterates what is stated in the affidavit. The parties have decided to withdraw all the allegations against one another. They assure that they will abide by the terms and conditions in the Consent Terms filed in Contempt Petition No.809 of 2022 dated 23.12.2022. A copy of which is filed on record.

6. In view of the settlement between the parties, Respondent No.2 will not support the prosecution case. The application would be flawed, and allowing criminal prosecution to continue would be an abuse of the process of the Court. It will also disrupt the compromise and interfere with the restoration of peace. Nothing fruitful will, therefore, come out of the prosecution in question. If the FIR is not quashed, the entire family will remain embroiled in litigation and prosecution, which will not serve the interest of justice. The dispute also does not have any ramifications on Society.

7. The dispute being matrimonial is a private dispute, and given the above-referred facts and the judicial pronouncements of the Apex Court in this regard in *Gian Singh Vs. State of Punjab & Anr.*¹ And *Narinder Singh & Ors. Vs. State of Punjab & Anr.*², we see no impediment in allowing the petition.

1 (2012)10 SCC 303

2 (2014) 6 SCC 466

8. Accordingly, the FIR No.351 of 2020 registered with DB Marg Police Station, under Sections 498-A, 406, 506, 323 r/w 34 of the Indian Penal Code and the proceedings arising therefrom against the Petitioners are quashed and set aside.

9. Rule is made absolute in above terms. No costs.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]