

VAISHALI
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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION No. 1400 OF 2023**

Mr. Gurushant G. Hiremath

...Petitioner

Vs.

State of Maharashtra and Ors.

...Respondents

Mr. Nikhil Ghate i/by Ravi Gupta for Petitioner

Mr. S.V. Gavand, APP for the State

Mr. Aditya Andhorikar i/by Abhishek Bandre for Respondent No.2.

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

DATED : 31st AUGUST, 2023

P.C.:

1. The Petitioner and Respondent No.2 got married on 25th June, 2007 and are blessed with child, who is in the custody of Respondent No.2.
2. Out of matrimonial differences, alleging cruelty and ill-treatment, as the Petitioner being allegedly physically assaulted the Complainant, the offence being Crime No. 591 of 2022 punishable under Sections 498-A, 406, 323, 504 and 506 of the IPC came to be registered on 7th December, 2022.
3. Subsequently, it appears that the Petitioner and Respondent No.2 have moved for divorce by mutual consent in accordance with the provisions of Section 13-B of the Hindu Marriage Act, 1955. The said proceedings are

pending on the filing of Civil Judge, Senior Division, Thane.

4. In this background. Respondent No.2- Complainant has submitted an affidavit sworn on 27th March, 2023, stating that they have agreed for divorce by mutual consent and she has already received an amount of Rs.2,65,500/- from the Petitioner.

5. The Petitioner, who is present in the Court, so also Respondent No.2 have mutually agreed to abide by the consent terms, which are submitted before the Court of Civil Judge, Senior Division, Thane, seeking divorce by mutual consent. It is informed that all the dues except an amount of Rs.1,62,500/- is yet to be received from the Petitioner by the Respondent No.2. The Petitioner has assured this Court that the said amount shall be paid to Respondent No.2 Complainant at the time of submitting affidavit in the pending proceedings for divorce by mutual consent before the Court of Civil Judge, Senior Division, Thane. The said statement made by the Petitioner is accepted as an undertaking.

6. In this background, when confronted, learned APP verified from Respondent No.2 wherein she has admitted to have executed the consent affidavit.

7. In view of the contents of the aforesaid consent affidavit being admitted by Respondent No.2 Complainant sworn on 27th March, 2023, we are of the view that no purpose will be served in keeping the present proceedings pending. Having regard to the stand taken by Respondent No.2 Complainant, even if the Petitioner is made to face the prosecution, same will not lead any plausible result or the object cannot be achieved.

8. In this background, having regard to the 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 (b). The prosecution against the Petitioners is quashed having regard to the consent extended by Respondent No.2 Complainant.

9. The Petitioners are directed to pay cost of Rs.25,000/- to the Association of Parents of Mentally Retarded Children to be deposited in the State Bank of India Account No.00000010884930648, IFSC Code SBIN0009056, within four weeks from the date of receipt of the order and 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 Petitioner in accordance with law.

10. Writ petition is disposed of in the aforesaid terms.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)