

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

CRIMINAL WRIT PETITION NO. 2692 OF 2022

1. Sunil Suresh Kadam
2. Suresh Gopal Kdam
3. Kamal Suresh Kadam
4. Anil Suresh Kadam ... Petitioners

Versus

1. State of Maharashtra
2. Namrata Sunil Kadam ... Respondents

Mr. Sunil Suresh Kadam, Petitioner in person, present.

Mrs. P. P. Shinde, APP for the Respondent No.1– State.

Mr. Milind Ingle a/w Mrs. Ashwini Datar Ingle, for the Respondent No.2.

Mr.P. B. Gaikwad, PSI, Manpada Police Station, present.

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.**

DATE : 28th FEBRUARY, 2023.

P. C. :

Since the petitioners are unable to engage a Counsel, the petitioner No.1 is appearing on behalf of himself as well as the other petitioners.

REKHA
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2 Heard the petitioner No.1 on behalf of himself and on behalf of the other petitioners as well as, learned Counsel for the respondents.

3 Rule. Rule is made returnable forthwith with the consent of the parties and the Petition is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1 –State and Learned Counsel Mr. Milind Ingle waives notice on behalf of the respondent No.2.

4 By this Petition, preferred under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, 1973, the petitioners seek quashing and setting aside of the FIR, bearing C.R.No. 721 of 2017, registered with the Manpada Police Station, Kalyan, for the alleged offences punishable under Sections 498A, 420, 354 r/w 34 of the Indian Penal Code and consequently, the proceeding pending before the learned Judicial Magistrate, First Class, Kalyan, being R.C.C. No 793/PW/2018. Quashing is sought on the premise, that the parties have amicably

settled their dispute.

5 Perused the papers. The applicant No.1 is the husband of respondent No. 2; the petitioner No.2, the father-in-law; the petitioner No.3, the mother-in-law; and the petitioner No.4, the brother-in-law of the respondent No.2, respectively.

6 It appears that the petitioner No.1 and the respondent No.2 got married on 21st May, 2017 and after marriage, the respondent No.2 started residing with the petitioners. It appears that in September, 2017, the respondent No.2 left the matrimonial home and lodged the aforesaid FIR as against the petitioners alleging the aforesaid offences, as according to her, she was ill-treated and harassed by the petitioners.

7 After investigation, charge-sheet was filed in the said case and the case is presently pending before the learned Judicial Magistrate, First Class, Kalyan, being R.C.C. No 793/PW/2018. It appears that apart from the aforesaid FIR, the respondent No.2 also filed a

Domestic Violence complaint as against the petitioners.

8 In the interregnum, during the pendency of the aforesaid proceeding, the parties amicably settled their dispute and decided to put a quietus to the same. Accordingly, the petitioner No.1 and the respondent No.2 entered into Consent Terms dated 4/12/2021 and were filed the same in the Court of the Learned Sessions Judge, Kalyan at Thane. It appears that the parties have filed a Petition seeking divorce by mutual consent under Section 13B of the Hindu Marriage Act. A copy of the said Petition is at Exh.F, at page 137, of the Petition. There are certain terms and conditions, which have been stipulated in the said Petition. It appears that the petitioner No.1 has paid to the respondent No.2 a sum of Rs. 2 lakhs by way of full and final settlement. As agreed, the respondent No.2 has also withdrawn the D.V. Complaint as against the petitioners.

9 Learned Counsel for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 28th February, 2023, duly notarized before the Notary. The said affidavit is taken on record.

Learned Counsel for the respondent No.2 has also tendered a photocopy of the Aadhar Card of the respondent No.2 duly attested by her. The respondent No.2 has been identified by her Counsel and the learned APP has verified the original Aadhar Card. In the said affidavit, the respondent No.2 has given her no objection for quashing of the aforesaid FIR registered at her behest and other proceedings. She states that she has received Rs. 2 lakhs by way of full and final settlement and as such, she does not wish to proceed against the petitioners.

10 The respondent No.2 is present in person. On being questioned, she re-iterates what is stated by her in her affidavit.

11 Considering the nature of dispute, the amicable settlement 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 the case **Gian Singh vs. State of Punjab & Anr.**¹ and **Narinder Singh & Ors. vs. State of Punjab & Anr.**², there is no impediment in allowing the Petition.

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

12 Accordingly, the Petition is allowed and the FIR bearing C.R.No. 721 of 2017, registered with the Manpada Police Station, Kalyan, as against the petitioners and consequently, the proceeding pending before the learned Judicial Magistrate, First Class, Kalyan, being R.C.C. No 793/PW/2018, are quashed and set aside.

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

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

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.