

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

CRIMINAL WRIT PETITION NO.2067 OF 2022

Mr. Ashraf Glasswala & Ors.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Mohd. Subhan Teli i/by Aasiemul Qadri, for the Petitioners.

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

Mr. Prashant Rai i/by Prajot Jaggi, for the Respondent No.2.

Mr. Bagwan, PSI, Dongri Police Station – present.

Respondent No.2/Complainant in person present.

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

DATE : 3rd OCTOBER, 2023

PC.

1. The prayer is for quashing of the offence being Crime No.83 of 2022 registered with Dongri Police Station, Mumbai for the offence punishable under Sections 498A, 377, 323, 109, 504, 506 r/w 34 of IPC and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019.

2. The respondent No.2 vide her complaint dated 31st March, 2022 alleged that she got married with the present petitioner No.1 on 26th May, 2006 and are blessed with three children. Alleging offence of sexual exploitation and cruelty, the aforesaid offence came to be registered.

3. The respondent No.2/complainant has placed on record additional affidavit. In the said affidavit while extending consent for quashing, it is stated that the custody of all the three sons namely, Master Abdul Qadir aged 14 years, Master Mohammed Ebrahim Aged 11 years and Master Mohammed Ahmed Raza aged 7 years shall remain with the respondent No.2/complainant. It is further stated that an amount of Rs.15,50,000/- is received by the respondent No.2/complainant towards full and final settlement. The consent terms to that effect are informed to have been filed in the pending DV Act proceedings.

4. In this background, when confronted, learned APP submits that already the investigation was carried out and “A-Summary” is submitted before the Court of concerned Magistrate.

5. We have requested learned APP to interact with the respondent No.2/complainant - Mrs. Farhana, who is physically present in the Court and identified by her counsel, so also, learned APP has verified her identity card viz. Aadhaar Card.

6. The respondent No.2/complainant through learned APP confirmed that not only she has received an amount of Rs.15,50,000/- but also custody of all the three sons as referred above is with her. Counsel for the petitioner/husband submits that he has no objection for permanent custody of all the three sons being with the respondent No.2/complainant. In the aforesaid

background, what can be noticed is, already the Investigating Agency has submitted “A-Summary” in the matter in view of non-availability of sufficient evidence against the accused persons.

7. Apart from above, the matrimonial dispute between the parties is already informed to have been settled. Having regard to the law laid down by the Apex Court in the matter of ***Gian Singh Vs. State of Punjab & Anr.*** reported in ***(2012)10 SCC 303*** and ***Narinder Singh & Ors. Vs. State of Punjab & Anr.*** reported in ***(2014) 6 SCC 466***, no purpose will be served in keeping the criminal proceedings pending against the petitioners including “A-Summary” before the concerned Magistrate. The report to the extent of submitting “A-Summary” before the Court of Magistrate is placed on record.

8. The present petition as such stands allowed in terms of prayer clause (b) subject to payment of cost of Rs.10,000/- to be paid by each of the petitioners with the Police Welfare Fund within period of four weeks and receipt of the payment of cost be produced with the Registry within same period, failing which the order of quashing the criminal proceedings shall stand recalled and this Court will be constrained to proceed against the petitioners in accordance with law.

9. The petition as such stands disposed of.

[N. R. BORKAR, J.]

[NITIN W. SAMBRE, J.]