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

CRIMINAL WRIT PETITION NO.4861 OF 2021

Gauravshri Shrigopal Maheshwar (Soni) & Ors. ..Petitioners

Versus

The State of Maharashtra & Anr. ..Respondents

Mr. Piyush Toshnival i/by Gaurav Parkar, for the Petitioners.

Smt. M. M. Deshmukh, APP for the Respondent/State.

Mr. Amit Icham, for the Respondent No.2.

Respondent No.2 in person present in Court.

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

DATE : 7th SEPTEMBER, 2023

P.C.

1. Leave to amend so as to enable to question the charge-sheet and carry out consequential amendment to add prayer clause. Amendment to be carried out forthwith.

2. Leave to file Vakalatnama by counsel for the Respondent No.2.

3. After the marriage between petitioner No.1 and respondent No.2 on 22nd April, 2016, both were blessed with a son, who is presently in the custody of respondent No.2/wife.

4. Out of matrimonial discord, on the complaint of respondent No.2/complainant, FIR being Crime No.484 of 2021 registered with Navghar Police Station, Thane for the offence punishable under Sections 498A, 377, 406, 323, 504, 506 r/w 34 of

IPC came to be registered against the petitioners, who are husband and in-laws.

5. It appears that the respondent No.2/complainant is present in the Court and is identified by her lawyer through whom she has tendered an affidavit extending consent for quashing.

6. In the aforesaid proceedings, our attention is invited to the joint application moved on behalf of the parties in M.P. Case No.883 of 2021 under Section 13(B) of the Hindu Marriage Act, 1955 for grant of divorce by mutual consent. We are informed that pursuant to the consent terms in the said proceedings, a prayer for quashing is jointly moved by the petitioner and respondent No.2. The contents of the affidavit when sought to be confirmed through the learned APP from the respondent No.2, she admits contents of the consent affidavit and stated to have executed the same out of her own free will supporting the prayer for quashing of FIR and charge-sheet.

7. The demand draft of Rs.10,00,000/- tendered by the petitioners to the respondent No.2/complainant is acknowledged by her. It is further informed that as on date, including aforesaid payment of Rs.10,00,000/-, Rs.20,00,000/- amount towards one time alimony is receivable by the respondent No.2/complainant. Counsel for the petitioners on instructions from the petitioner No.1, who is present in the Court has undertaken to deposit balance amount of Rs.10,00,000/- at the time of passing of decree for divorce as the proceedings under Section 13(B) are informed to

have been pending. The said statement is accepted as an undertaking to this Court.

8. In view of stand taken by the respondent No.2/complainant, petitioners cannot be made to suffer and face the prosecution, as same cannot be taken to its logical end. In view of 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**, we deem it appropriate to quash and set aside FIR and consequential charge-sheet.

9. That being so, the petition stands allowed in terms of prayer clause (a) subject to payment of cost of Rs.10,000/- to be paid by each of the petitioners to the *Pasaydan Balvikas Foundation* (Bank Name : Central Bank of India, A/C No.3775403155, IFSC Code: CBIN0285070) and receipt of payment of cost be produced with the Registry within four weeks, failing which the order of quashing the criminal proceedings shall automatically stand recalled.

10. The petition as such stands disposed of.

[RAJESH S. PATIL, J.]

[NITIN W. SAMBRE, J.]