

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

CRIMINAL WRIT PETITION NO.6341 OF 2021

Mukesh Omprakash Gupta
of Bombay, adult, Indian Inhabitant,
Aged about 64 years, residing at House
No-96, Olivia Panchayat Ghat Rampur
Road, Haldwani Uttaranchala Petitioner.

Vs.

1. The State of Maharashtra
Through Inspector Incharge,
Valiv Police Station, to be served
Through Public Prosecutor,
High court (A.S.) at Bombay.

2. Mrs. Priya Mukesh Gupta
Adult, Indian Inhabitant, Occupation Business
residing at Flat No.401, B Wing,
Ram Rahim Accord, Opp. Evershine Gate,
Madhuban Township, Vasai West, Respondents.

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Mr Sushil S. Upadhyay, for the Petitioner.

Smt M.M. Deshmukh, APP for State.

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

DATE : 1 MARCH 2023.

Order (Per R.N.Laddha) :

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 Petitioner seeks to quash the FIR No.I-161 of 2013, lodged with Waliv Police Station, District-Palghar, at the instance of Respondent No.2/original Complainant for the alleged offence punishable u/Ss 498-A, 406 and Section 32 of the Domestic Violence Act, 2005. Quashing is sought on the premise that the parties have amicably settled their dispute and that Respondent No.2 has no objection to the quashing of the impugned FIR.

4. Perused the papers. Petitioner was the husband of Respondent No.2. After marriage, Respondent No.2 started residing at her matrimonial home with the Petitioner. Since marital discord/differences post-marriage, Respondent No.2 lodged the FIR described above, vide C.R.No.I-161 of 2013, with Waliv Police Station, District-Palghar, against the Petitioner. Allegations of ill-treatment and harassment were made. After filing the impugned FIR, the investigation commenced, and a charge sheet was filed vide RCC No.343 of 2014 pending before the Judicial Magistrate, First Class at Vasai.

5. When this writ petition was placed before us, it was stated by the Petitioner and Respondent No.2 that the dispute, which was a purely domestic dispute, had been amicably settled. Learned Counsel for the Petitioner submitted that the Petitioner and Respondent No.2 had decided to be separated. As such, they agreed to part peacefully and gracefully by dissolving the marriage. Accordingly, a divorce petition was filed. The Court of Civil Judge, Senior Division, Vasai, on 3.9.2021, granted them divorce decree by mutual consent. Also, the parties entered into consent terms on 17.2.2014. A copy of the consent terms is annexed to this petition. The parties assure that they will abide by the terms and conditions in the consent terms. The petitioner and Respondent No.2, in unison, said that they have decided to withdraw all the allegations and litigations pending by or against each other.

6. The learned Counsel for the Petitioner submitted that on the Petitioner's complaint, crime, vide C.R.No.596 of 2017, for the offences punishable under Sections 380, 324, 323, 341, 504, 506 r/w 34 of the IPC was registered against Respondent No.2 wherein the police, on 22.11.2021 filed the 'A' Summary report. He submitted that the Petitioner had already filed a consent affidavit before the learned J.M.F.C., Vasai, and thereby extended his consent for the acceptance of the 'A' Summary report. The parties prayed this Court to direct the learned trial Court to accept the said

'A' Summary report, so that the settlement arrived at between the parties can be given finality. The learned Counsel for the Petitioner, on instructions, submitted that the Petitioner will appear before the learned trial Court to extend his consent for acceptance of the 'A' Summary report by the trial Court. Given the above, we direct the learned JMFC, Vasai, to accept the 'A' Summary report dated 22.11.2021 filed by Mr. Pankaj Shirsat, Assistant Police Commissioner, Tulinj Division, Vasai Road (East) Taluka-Vasai, District-Palghar.

7. The learned Counsel for the Petitioner submitted that no purpose would be served by keeping the prosecution alive, given the settlement between the parties. He submitted that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in *Gian Singh Vs. State of Punjab & Anr.*¹ and *Narinder Singh & Ors. Vs. State of Punjab & Anr.*²

8. The FIR arising from purely domestic disputes can be quashed by consent in light of the decisions of the Hon'ble Supreme Court in the above-referred cases. The dispute being matrimonial is a private dispute. Given the settlement between the parties, Respondent No.2 will not support the prosecution case. The accusation would be flawed, and allowing criminal prosecution to continue would be an abuse of the process of the law. It will also

1 (2012)10 SCC 303.

2 (2014) 6 SCC 466.

disrupt the compromise and interfere with the restoration of peace. Nothing fruitful will, therefore, come out of the prosecution in question. The parties wish to put their past behind them. The dispute also does not have any ramifications on society at large.

9. Considering the nature of the dispute, the consent terms entered into between the parties, the settlement arrived at between them and judicial pronouncements of the Apex Court in *Gian Singh & Narinder Singh (supra)*, there does no impede allowing the petition.

10. As a result, the present criminal writ petition is allowed, and the FIR bearing C.R.No. I-161 of 2013 and the proceedings arising therefrom, viz. criminal case bearing RCC No.343 of 2014 pending before the Court of Judicial Magistrate, First Class at Vasai, are quashed and set aside.

11. The Rule is made absolute in the above terms without any cost order.

[R.N.LADDHA, J.]

[NITIN W.SAMBRE, J.]