

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

CRIMINAL WRIT PETITION NO.2662 OF 2023

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Vishal Ashok Bhambwani & Anr.

..Petitioners

Versus

The State of Maharashtra & Anr.

..Respondents

Ms. Purnima Bhatia i/by B. S. Shetty, for the Petitioners.

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

Mr. Jiven Hiwrale, for the Respondent No.2.

Respondent No.2 in person – present.

Mr. Sunil Sonawane (Pairavi), PSI, Charkop Police Station – present.

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

DATE : 22nd AUGUST, 2023

PC.

1. Out of matrimonial discord, the respondent No.2/complainant approached the police authority resulting into registration of offence being No.00 of 2019 with Dindoshi Police Station for an offence punishable under Sections 498A, 406, 504 r/w 34 of IPC, which was subsequently transferred to Charkop Police Station thereby resulting into registration of offence being Crime No.379 of 2019 punishable under Sections 498A, 406, 504 r/w 34 of IPC.

2. The fact remains that the petitioner is charge-sheeted in the said matter of which the prayer is for quashing.

3. It appears that there were proceedings under Section 13(B) of the Hindu Marriage Act initiated by the respondent No.2/complainant on the file of Family Court, Bandra vide Petition No.A-2009 of 2020. In the above proceedings, the petitioner and the respondent No.2/complainant have drawn consent terms and the said proceedings are still pending.

4. Amongst other, one of the term in the said consent terms executed and submitted before the Family Court is to agree for quashing of the present criminal proceedings by consent.

5. The respondent No.2/complainant has tendered an affidavit thereby stating that the petitioner and respondent No.2 have decided to settle the dispute amicably. Accordingly, the consent affidavit is placed on record by respondent No.2/complainant along with photocopy of her Aadhaar Card.

6. Counsel for the respondent No.2/complainant has identified the said party and the learned APP has also interacted with the respondent No.2/complainant. The respondent No.2/complainant has stated before us that she has executed consent terms in pending Petition No.A-2009 of 2020 which was initiated under Section 13(B) of the Hindu Marriage Act. She has also stated that the consent affidavit placed on record by her is voluntary act and without there being any coercion and external pressure. Counsel for the respondent No.2/complainant further submits that since the petitioner and the respondent

No.2/complainant have mutually decided to get separated, she is extending consent for quashing.

7. When confronted, the respondent No.2/complainant has admitted to the contents of the affidavit. In the aforesaid background, in view of stand taken by the respondent No.2/complainant, no purpose will be served in keeping the criminal proceedings pending against the petitioner. 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***, we deem it appropriate to allow the petition in terms of prayer clause (b).

8. The petition as such stands allowed subject to payment of cost of Rs.10,000/- to be paid by each of the parties to the Maharashtra State Legal Services Authority within period of four weeks from today and copy of the receipt be produced before the Registry within same period, failing which the order of quashing the criminal proceedings shall stand automatically revived and this Court will be constrained to proceed against the parties in accordance with law.

9. The petition as such stands disposed of.

[RAJESH S. PATIL, J.]

[NITIN W. SAMBRE, J.]