

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 5085 OF 2022

1. Shridhar Sonu Kadam
2. Smt. Vandana Shridhar Kadam
3. **Vinayak Shridhar Kadam** ...Petitioners

Versus

1. The State of Maharashtra
2. Ujwala Vinayak Kadam ...Respondents

Mr. Nandkishor S. Parabkar for the Petitioners.

Mr. Y.M.Nakhwa, A.P.P for the Respondent-State.

Ms. Megha Bajoria for the Respondent No.2.

CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
DATE : 8th FEBRUARY, 2023

P.C. :

1. At the outset, learned Counsel for the petitioners seeks leave to amend to implead the respondent No.2's husband as party petitioner No.3. Leave granted. Amendment to be carried out during

the course of the day.

2. Heard learned Counsel for the parties.

3. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives notice on behalf of the respondent No.1–State. Ms. Megha Bajoria waives notice on behalf of the respondent No.2.

4. By this petition, preferred under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, the petitioners seek quashing of the FIR bearing C.R. No. 35 of 2020 registered with the Vile Parle Police Station, Mumbai, for the alleged offences punishable under Sections 498A r/w 34 of the Indian Penal Code and consequently, the proceeding pending before the learned Metropolitan Magistrate, 63rd Court, Andheri, Mumbai, being R.C.C.No. 2131 of 2021. Quashing is sought on the premise that the parties have amicably settled their dispute.

5. Perused the papers. The newly added petitioner No.3 is the husband of the respondent No.2 and the petitioner Nos.1 and 2 are the father-in-law and mother-in-law of the respondent No.2 respectively. It appears that the petitioner No.3 and the respondent No.2 got married on 7th May, 2018, after which, the respondent No.2 started residing in her matrimonial house. As according to the respondent No.2, she was allegedly ill-treated and harassed by the petitioners, she has filed the aforesaid FIR as against the petitioners, alleging the aforesaid offences. It appears that apart from the aforesaid case, there is a D.V. proceeding as well as the Divorce Petition filed by the respondent No.2 in the Family Court at Bandra.

6. During the pendency of the aforesaid proceeding, the parties i.e. petitioner No.3 and the respondent No.2 decided to amicably settle the dispute and put a quietus to the same. Accordingly, Consent Terms were entered into between the parties and filed in the Divorce Petition being No.A-1678 of 2021, pending before the Family Court at Bandra.

7. Learned Counsel for the respondent No.2 has tendered an affidavit of the respondent No.2 dated 8th February, 2023, duly notarized before the Notary. To the said affidavit, is annexed a photocopy of the Aadhar Card of the respondent No.2, duly signed by her. The said affidavit is taken on record. The Consent Terms are also annexed to the said affidavit at 'Exhibit -B'. In the said affidavit, the respondent No.2 has stated that she has decided to move ahead and as such, has no objection for quashing to the FIR/proceeding initiated at her behest. She has further stated that both parties have agreed to withdraw all allegations as against each other. The said affidavit is taken on record.

8. The respondent No.2 is present in person. On questioning, she re-iterates what is stated by her in her affidavit. She states that she does not want a single farthing from her husband. Admittedly, the parties have no issues. The respondent No.2 has been identified by her Counsel. The original Aadhar Card of the respondent No.2 is verified by the learned APP.

9. Considering the nature of dispute, the relations between the parties, the Consent Terms entered into between them, the affidavit of the respondent No.2 and the judicial pronouncements of the Apex Court in *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.

8. The petition is accordingly allowed and the FIR bearing C.R. No. 35 of 2020, registered with the Vile Parle Police Station, Mumbai, and consequently, the proceeding pending before the learned Metropolitan Magistrate, 63rd Court, Andheri, Mumbai, being R.C.C. No. 2131 of 2021, are quashed and set-aside.

9. The petitioner to deposit a sum of Rs.25,000/- with the Jeevan Sandhya Mangalya Sansthan, bearing Account No. 60134381699, IFSC No. MAHB0000189, and a sum of Rs.25,000/- with the Pasaydan Balvikas Foundation, bearing account No. 3775403155, IFSC No. CBIN0285070, as costs. The said costs to be

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

deposited within three weeks from today.

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

11. Learned Counsel for the respondent No.2 to file her Vakalatnama, if not filed, on behalf of the said respondent, in the Registry, within two weeks of uploading of this order.

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

13. Stand over to **15th March, 2023**, for recording compliance of the order of deposit.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.