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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 1478 OF 2023**

1. Aniket son of Ramkripal Upadhyaya
2. Ramkripal son of Shrikant Upadhyaya
3. Sushma wife of Ramkripal Upadhyaya
4. Dinesh son of Shrikant Upadhyaya
5. Ragini wife of Dinesh Upadhyaya
6. Akanksha Nikhil Kushalani
7. Nikhil Kushlani
8. Vandana Shukla ...Petitioners

Versus

1. State of Maharashtra
@ Manpada Police Station,
Dombivli East, Thane
2. Gargi Pathak wife of Ankit Upadhyaya
daughter of Chandrakant Pathak ...Respondents

Mr. Digajmaan G. Mishra a/w. Mr. Yashman Mishra and Mr. Mangesh Bhende, Ms Hema Kala i/b Brahmand Lexis LLP for the Petitioners.

Ms M. M. Deshmukh, APP for the Respondent/ State.
Ms Sweta Yadav for Respondent No.2

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.
DATE : 17 OCTOBER, 2023.**

PC:-

1. We are informed that the petitioners are already charge-sheeted. In view thereof, leave to amend so as to enable the petitioners to question the charge-sheet. Amendment to be carried out forthwith.

2. Petitioner No.1 was married to respondent No.2 on 18 April 2018. Petitioner Nos.2 and 3 are father-in-law and mother-in-law of respondent No.2 respectively. Petitioner Nos.4 & 5 are paternal Uncle and Aunt of petitioner No.1. Petitioner Nos.6 and 7 are sister-in-law and brother-in-law of respondent No.2/complainant respectively. Petitioner No.8 is maternal Aunt of petitioner No.1.

3. Based on allegations of cruelty, criminal breach of trust and act of voluntarily causing hurt including intimidation, offence being Crime No.519 of 2022 punishable under Sections 313, 323, 406, 498-A, 504 and 506 read with 34 of the Indian Penal Code came to be registered with Manpada Police Station, Thane City.

4. In the matrimonial dispute, petitioner No.1/husband and respondent No.2/complainant have entered into settlement and accordingly, an affidavit is filed by petitioner No.1 so also respondent No.2 thereby agreeing the terms of the Consent Terms.

5. We are informed that after settling the dispute, the parties have preferred the divorce petition being Petition No. A-550 of 2021 before the Family Court, Thane and placed on record the Consent Terms and sought decree for divorce by mutual consent.

6. Petitioner No.1, who is present in the Court, has stated in the affidavit that except for gold ring and gold chain which are to be returned by 31 January 2024, all the belongings of respondent No.2/complainant have been returned to the complainant. List of belongings which are returned to respondent No.2/complainant is annexed to the affidavit.

7. It is further assured to this Court that on or before 31 January 2024, the gold ring and gold chain will be returned to respondent No.2/complainant. If the said articles are not returned by the aforesaid date, the gold equivalent to the weight of said articles will be given to the respondent No.2/complainant.

8. Similarly, the respondent No.2/complainant has placed on record the affidavit agreeing to the above settlement terms.

9. In response to the Court's query, respondent No.2/complainant, through learned APP, informs that she is in receipt of all the article which are reflected in Annexure -A, Schedule-II and Schedule III. She further submits that she is in agreement with the condition of return of gold chain and gold ring by 31 January 2024 and if the petitioner No.1 is not in a position to return said articles, she will accept the gold equivalent to the weight of said articles.

10. Since the statement is made by the counsel for petitioner No.1/husband, on instructions from the petitioner No.1 who is present in the Court, about return of gold articles referred above, viz. gold chain and gold ring by 31 January 2024 is accepted as Undertaking to this court.

11. In the aforesaid backdrop, respondent No.2/complainant has specifically stated that she has extended the consent for

quashing of the aforesaid offence against the petitioners.

12. As the consent is informed to be voluntary act of respondent No.2/complainant, as is informed and verified by learned APP, we deem it appropriate to accept the consent extended by respondent No.2/wife.

13. In the aforesaid background and having regard to the consent affidavit which is placed on record, no purpose will be served by keeping the criminal proceedings pending against the petitioners. In view of the law laid down by the Apex Court in cases of (i) *Gian Singh Vs. State of Punjab & Anr.*¹ & (ii) ***Narinder Singh & Ors. Vs State of Punjab & Anr.***², we deem it appropriate to allow the petition.

14. The Petition as such stands allowed in terms of prayer clause (a), subject to payment of cost of Rs.3,000/- by each of the petitioner to the ***“Children AID Society bearing Account No.02370100005612, UCO Bank, IFSC Code:UCBA0000237”*** within six weeks from today and the

¹ (2012) 10 SCC 303

² (2014) 6 SCC 466

receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings shall stand recalled.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)