

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

CR. WRIT PETITION NO. 2905 OF 2023

Kalpesh Krishna Khatavkar & Ors ...Petitioners
Versus
State Of Maharashtra & Anr. ...Respondents

**WITH
CR. WRIT PETITION NO. 1808 OF 2023**

Kavita Nitesh Javalkar & Ors ...Petitioners
Versus
The State Of Maharashtra & Anr ...Respondents

Mr. Kushal Mor a/w. Adv. Amit Nikam i/b. Adv. Avik Sarkar for the
Petitioners in both WPs.
Ms M. M. Deshkukh, APP for the Respondent-State.
Ms Vijayalaxmi Obhan for the Respondent No. 2 in both WPs.

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

DATED : 24th AUGUST, 2023

P.C.:

1. Both these Petitions by consent tagged and heard together.
2. The prayer is for quashing of the FIR in Crime No. 688 of 2022 punishable u/s. 498-A, 504, 506, 354, 509, 323, 406 r/w. 34 of IPC registered on 04/05/2022 and consequential charge-sheet filed against the Petitioners.
3. It appears that the dispute *inter se* between the Respondent/ Complainant and the Petitioners cropped up based on the

matrimonial discord. It is claimed that the Respondent/Complainant got married on 31/03/2019 with Petitioner-Kalpesh Krishna Khatavkar.

4. The Respondent/Complainant through her Counsel has placed on record a joint Consent Affidavit in both these Petitions stating that she has lodged the aforesaid complaint resulting into registration of the FIR and consequential charge-sheet.

5. It is claimed by her that the divorce proceedings bearing Petition A/406/2023 was allowed *inter se* between the parties i.e. Petitioner-Kalpesh and the Respondent/Complainant and both have agreed for divorce by mutual consent.

6. The Consent Terms drawn and placed before the Family Court are also produced before this Court which is annexed with the Consent Affidavit.

7. Amongst other conditions which are to be complied with for getting divorce by mutual consent is, to extend consent for quashing of the FIR in the present matter.

8. The Respondent/Complainant is physically present in Court and has tendered the Consent Affidavit through her lawyer alongwith the copy of the Consent Terms as has been executed and agreed between the husband and wife i.e. the

Respondent/Complainant - wife and the Petitioner - her husband.

9. The Respondent/Complainant was confronted through learned APP, Ms Deshmukh. The Respondent/Complainant has agreed and stated that she has voluntarily executed the Consent Terms out of her own free will as she has discovered that in long term it is difficult for her to continue the relationship with the Petitioner/husband - Kalpesh Khatavkar and his family.

10. In the aforesaid background, if the prosecution against the Petitioners is continued, no purpose will be achieved and it will be an unfruitful attempt to continue the prosecution resulting in wastage of the precious judicial time.

11. That being so and in view of the law laid down by the Apex Court in the matter of ***Gian Singh vs. State of Punjab and Another*** reported in **(2012) 10 SCC 303** and ***Narinder Singh & Ors. Vs State of Punjab & Anr.*** reported in **(2014) 6 SCC 466**, both the Petitions are allowed in terms of prayer clause (a). Needless to clarify that since the Petitioners are charge-sheeted, the charge-sheet also stands quashed and set aside.

12. Both the Petitions are allowed subject to payment of cost of Rs.5,000/- to be paid by **each** of the Petitioners in both the Petitions to the Maharashtra State Legal Services Authority within

a period of four weeks from today.

13. All the Petitioners shall produce the copy of the receipt of payment of aforementioned cost in the Registry within a period of four weeks from today, failing which the order of quashing the proceedings shall stand revived.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)