

VAISHALI
ANIL
TIKAM

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

**CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 1085 OF 2023**

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Suhail Akbarali Qadri and Ors.

...Applicants

Vs.

State of Maharashtra and Ors.

...Respondents

Ms. Muskan Shaikh i/by Mateen Shaikh for Applicants

Mr. S.V. Gavand, APP for the State

Mr. Mohammed Arshad Shaikh for Respondent No.3

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

DATED : 29th AUGUST, 2023

P.C.:

1. Prayer is for quashing of the FIR by consent in Crime No. 285 of 2023, registered on 8th May, 2023 for offence punishable under Sections 498A, 323, 504, 506 r/w. 34 of the IPC.
2. Applicant No.1 is the son of Applicant Nos. 2 and 3. Respondent No.3 got married with Applicant No.1 on 22nd October, 2020.
3. It appears that since the disputes and differences occurred between Applicant No.1 and Respondent No.3, Respondent No.3 has lodged the complaint, which has resulted into the aforesaid offence. It is stated in the FIR that Petitioner No.2 – father-in-law is the maternal uncle of Respondent No.3.
4. It appears that Applicant No.1 and Respondent No.3 since were not

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staying together, they have decided to part their ways. in the proceedings being Complaint No. 139 of 2022 initiated on the file of 52nd Metropolitan Magistrate under section 12 of the Domestic Violence Act, 2005, Respondent No.3 claimed to have received an amount of Rs.6,00,000/- towards one time alimony. It is also stated that since Applicant No.1 and Respondent No.3 have decided to part their ways, she has willingly consented for quashing of the aforesaid FIR against the Applicants.

5. Respondent No.3 appears to be an uneducated lady and since the consent affidavit is drafted in English, we have asked the learned APP Ms. Deshmukh to interact with Respondent No.3-Complainant, who is present in the Court and is identified by her lawyer. Respondent No.3 has specifically stated that she has received an amount of Rs.6,00,000/- towards one time alimony in the pending D.V. Act proceedings. She has also voluntarily stated that she is extending consent without any pressure or misrepresentation from the Applicants.

6. As Respondent No.3 has admitted the execution of the consent affidavit for quashing the complaint, the same is taken on record and marked 'X' for identification.

7. In view of the stand taken by Respondent No.3, the very object with which the Applicants are sought to be prosecuted, cannot be achieved or

taken to its logical end and the Applicants cannot be made to face rigors of prosecution before the Sessions Court.

8. In this background, having regard to 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 129*, we deem it appropriate to allow the present proceedings in terms of prayer clause (a). The prosecution against the Applicants is quashed having regard to the consent extended by Respondent No.3 Complainant.

9. The Applicants are directed to pay cost of Rs.25,000/- to the Association of Parents of Mentally Retarded Children to be deposited in the State Bank of India Account No.00000010884930648, IFSC Code SBIN0009056, within four weeks from the date of receipt of the order and receipt to that effect be placed on record within a week thereafter, failing which the order of quashing of proceedings shall automatically stand recalled and this Court will be constrained to proceed against the Applicants in accordance with law.

10. Criminal Application is disposed of in the aforesaid terms.

(RAJESH S. PATIL, J)

(NITIN W. SAMBRE, J.)