

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.58 OF 2023**

Vaibhavi Vinod Shinde] **Applicant**

Vs.

1. State of Maharashtra]

2. Aparna Vishal Salvi] **Respondents**

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Mr. Hemant Ingle i/b Mr. Moosa Thakur, for Applicant.

Mr. K.V. Saste, A.P.P, for Respondent No.1-State.

Mr. Rajas Naik, for Respondent No.2.

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**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, J.J.**

DATE : 24th January, 2023.

P.C.

1. Heard learned Counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and the application is taken up for final disposal.

Learned A.P.P, waives notice on behalf of respondent No.1-State.

Mr. Naik, learned Counsel waives notice on behalf of respondent No.2.

3. By this application, preferred under section 482 of the Code of Criminal Procedure, 1973 (for short, "Cr. P.C"), the applicant

seeks quashing and setting aside the First Information Report (for short "F.I.R") bearing C.R. No.636 of 2022, registered with the Navghar Police Station, Bhayander, District Thane, for the alleged offences punishable under sections 498-A, 406, 427, 323, 504, 506, 507 and 509 of the Indian Penal Code (for short "I.P.C"). Quashing is sought on the premise that the parties have amicably settled their dispute.

4. Perused the papers. Applicant is the sister-in-law of the respondent No.2, who has filed the aforesaid C.R, as against the applicant and other family members. Learned Counsel for the applicant has submitted that the applicant, aged 18 years, wants to pursue her career as an "Air Hostess", however, due to the pending C.R., she is facing several hurdles in her further education and that she would lose all opportunities, if the F.I.R is not quashed. Pursuant thereto, the respondent No.2 on the last date, graciously consented to quashing of the F.I.R only *qua* the applicant, without going into the merits of the case, only having regard to the fact that the applicant wants to pursue her career as an "Air Hostess", so also, pursue her higher education. Accordingly, learned Counsel for the respondent No.2 has today tendered a consent affidavit of the

respondent No.2 dated 24th January, 2023 duly affirmed before the Notary. The said consent affidavit is taken on record. In paragraphs 3 and 4 of the said affidavit, she has stated as under;

"3. I say that the aforesaid Criminal Application was listed before this Hon'ble Court on 20.01.2023 when after arguing for some extent the Advocate for Applicant submitted that the present Applicant is 18 years old girl and want to pursue her career as an "Air Hostess" and therefore she is facing tremendous hurdles in her career due to pendency of the present FIR against her. It was further submitted that due to pendency of present FIR she could not apply to various universities for her future education. It was further submitted that if the FIR is not quashed against the Applicant then she may lose various opportunities in respect of her bright future and career ahead".

4. I say that considering the submissions advanced by the Advocate for the Applicant, I say that without prejudice to my rights and contentions in the FIR No.636 of 2022, I being Respondent No.2 in the present Application only on humanitarian grounds and without touching the merits of the matter, I am ready and willing to withdraw all allegations against the present Applicant/Accused No.5 in FIR No.636 of 2022 registered with Navaghar Police Station, Bhayander District Thane on 16.08.2022 for the offences punishable U/s. 498-A, 406, 427, 323, 504, 506, 507, 509 of the Indian Penal Code and without prejudice to the contentions, averments and grievances raised by me against Accused No.1, 2,3,4,5,7,8,9, 10 in the FIR.

She has specifically stated in paragraph 4 that she has given her consent without prejudice to her rights and contentions in the F.I.R and that consent is given only *qua* the applicant, on humanitarian ground, without touching the merits of the case. The respondent No.2 has thus withdrawn all allegations as against the applicant in the F.I.R initiated at her behest against the applicant.

5. Respondent No.2 is present in the Court. On being questioned, she reiterates what is stated by her in her affidavit. Learned Counsel for the respondent No.2 has tendered photo copy of the PAN Card of the respondent No.2 duly attested by her. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2. The learned A.P.P has also verified the original PAN Card of the respondent No.2.

6. Similarly, learned Counsel for the applicant has also tendered an Affidavit of the Applicant dated 23rd January, 2023 duly notarized before the Notary, stating therein that she has withdrawn all allegations made by her against the respondent No.2. To the said affidavit, photo copy of the Aadhar Card of the applicant is annexed. The affidavit and photo copy of Aadhar Card is taken on record.

7. Considering the aforesaid, the nature of dispute, the respective affidavits filed by the applicant and the respondent No.2 and having regard to the judicial pronouncements of the Apex Court in the case of **Gian Singh Vs. State of Punjab and another**¹ and **Narinder Singh and others Vs. State of Punjab and another**², there is no impediment in allowing the application.

8. The application is accordingly allowed and the F.I.R registered vide C.R. No.636 of 2022, with the Navghar Police Station, Bhayander, District, Thane, is quashed and set aside only *qua* the applicant.

9. Rule is made absolute in the aforesaid terms. Application is disposed of accordingly.

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

[PRITHVIRAJ K. CHAVAN, J.]

[REVATI MOHITE DERE, J.]

1 (2012) 10 SCC 303

2 (2014) 6 SCC 466