

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4808 OF 2024

Hussain Akbarali Virji And Ors.

... Petitioners

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. S. Shamin a/w Murtuza Slatewala, for the Petitioners.

Mr. Hussain Virji, Rukhsana Virji, Akbavali Virji and Anisha Kabani,
Petitioner Nos. 1, 2, 3 & 4, respectively, present in Court.

Mr. Tejas Vijaykumar Dhotre, for the Respondent No. 2.

Respondent No. 2, is present.

Mr. Prasanna Malshe, APP for Respondent – State.

PSI Vijay Patil, Byculla Police Station, is present.

CORAM : ASHWIN D. BHOBE, J.

DATE : 13th FEBRUARY, 2026.

P.C. :

1. Heard Mr. Shamin Murtuza, learned Advocate for the
Petitioners, Mr. Prasanna Malshe, learned APP for the Respondent -
State and Mr. Tejas Dhotre, learned Advocate for Respondent No.2.

2. This Petition under Article 226 of the Constitution of India
and under Section 528 of the Bhartiya Nagarik Suraksha Sanhita,
2023 is preferred by the Petitioners for quashing the FIR No. 08 of
2020 registered with Byculla Police Station, Mumbai for the
offences punishable under Sections 377, 498A and 34 of the

Indian Penal Code, 1860 and chargesheet dated 2nd July, 2020 registered as Case No. 838/PW/2020, pending before the Judicial Magistrate First Class, 25th Court, Mazgaon, Mumbai.

3. Petitioners are present in the Court and are identified by their Advocate Mr. S. Shamin. He tenders the Photostat copies of the Identity Cards of 4 Petitioners, which are taken on record and marked as “**X-Colly**” for identification.

4. Respondent No.2 is present in the Court and is identified by her Advocate Mr. Tejas Dhotre. He tenders the Photostat copy of Identity Card of Respondent No.2, which is taken on record and marked as “**X-1**” for identification.

5. Learned Advocate Mr. S. Shamin and Mr. Tejas Dhotre submit that the Petitioners and the Respondent No. 2 have amicably resolved the matrimonial dispute and they have entered into consent terms on 22nd September, 2025 before the Court of Sessions for Greater Bombay at Mumbai in Criminal Appeal No. 82 of 2021. They submit that upon resolution of the said matrimonial dispute, Petitioner No. 1 (Husband) and Respondent No. 2 (Wife)

have decided to part ways and obtain divorce in terms of law. They therefore submit that the criminal proceedings may not be continued. They state that the Respondent No.2 has given her no objection for quashing of the criminal proceedings, as such they request that the same be quashed.

6. Mr. Tejas Dhotre states that the Affidavit dated 13th February, 2026 affirmed by Respondent No.2 before the Notary S. N. Dhanage is placed on record. Same is marked as “X-2” for identification.

7. Respondent No. 2 states that the said Affidavit (X-2) is filed out of her own free will and without any pressure or coercion from any person. She states that the contents of the Affidavit (X-2) are as per her say. She reiterates her no objection for quashing of the criminal proceedings.

8. Mr. P. Malshe, learned APP for the State submits that the Petitioners and the Respondent No. 2 having now resolved the matrimonial dispute, no purpose would be served in continuing with the criminal proceedings, more so, in view of the statements

made by the Respondent No. 2 in her Affidavit (X-2). He however submits that investigation was completed and chargesheet was filed on the basis of the complaint of Respondent No. 2 as such, he insists for payment of cost.

9. Mr. S. Shamin and Mr. Dhotre, on instructions from the Petitioners and the Respondent No. 2 submit that they would deposit appropriate cost.

10. Considering the aforesaid circumstances, the nature of dispute, the matter being settled between the Applicants and the Respondent No.2, the statement of Respondent No. 2 in the Affidavit (X-2) and having regards to the pronouncements of the Hon'ble Supreme Court in the case of *Gian Singh vs State Of Punjab*¹, *Narinder Singh And Ors vs State Of Punjab And Anr*² and *Parbatbhai Aahir @ Parbatbhai vs The State Of Gujarat*³, there is no impediment in allowing this Writ Petition.

11. In view of the above, Writ Petition No. is allowed in terms of prayer clause (a) subject to payment of costs of Rs. 50,000/- as

1 2012 10 SCC 303

2 2014 6 SCC 466

3 2017 9 SCC 641

condition precedent. Consequently, the impugned FIR No. 08 of 2020 registered with Byculla Police Station, Mumbai and the chargesheet registered as Case No. 838/PW/2020, pending before the Judicial Magistrate First Class, 25th Court, Mazgaon, Mumbai, are quashed. Criminal proceedings against the Petitioners are closed.

12. The Petitioners shall deposit cost of Rs. 25000/-in the below mentioned Account of the High Court Employees Medical Welfare Fund, Mumbai, within a period of two weeks from today.

The High Court Employees Medical Welfare Fund at Mumbai	
Account No.:	000120110001337
Bank :	Bank of India
Branch :	Mumbai Main
IFSC Code :	BKID0000001

13. The Respondent No. 2 shall deposit cost of Rs. 25000/- in the below mentioned Account of the Central Police Welfare Fund within a period of two weeks from today.

Central Police Welfare Fund	
Director General M. S. Mumbai.	
Account No. :	914010029005759
Bank :	Axis Bank Limited
Branch :	Worli, Mumbai (M.H.), Mumbai – 400 025
IFSC Code :	UTIB0000060

14. The compliance affidavit along with the proof of deposit be filed in the Registry of this Court on or before 10th March, 2026.

15. This Writ Petition is allowed in the above-said terms.

(ASHWIN D. BHOBE, J.)