

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1591 OF 2017

- 1) Kunal Ashok Patil,
Age 28 years, Occupation Service,
- 2) Ashok Nathaji Patil,
Age 63 years, Occupation Retired,
- 3) Pushpa Ashok Patil,
Age 61 years, Occupation Retired,

No.1 to 3 R/o Plot No.8, Pramod Nagar,
Sector -1, Nakane Road, Deopur,
Dhule Dist. Dhule.

- 4) Sau. Harshada Raja Ayyar,
Age 38 years, Occupation Household,
R/o. Airoli, Navi Mumbai.
- 5) Yogeshri Jagdish Garud,
Age 32 years, Occupation Household,
R/o Gudhe, Taluka Karad,
Dist. Satara.

.. Petitioners.

VS.

- 1) The State of Maharashtra,
Through Chalisgaon Police Station,
District Jalgaon.
- 2) Sonal Kunal Patil,
Age 25 years, Occupation Household,
R/o. "Bhaushri", Shivashakti Nagar,
Near Bhole Baba Darbar, Chalisgaon,
Tal. Bhusawal Dist. Jalgaon.

.. Respondents

Mr. A. S. Savale, Advocate for petitioners.

Mr. D. R. Kale, Additional Public Prosecutor for respondent
No. 1 / State.

Mr. D. V. Deshmukh, Advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.
DATE : 15-03-2018**

ORAL JUDGMENT (Per Smt. Vibha Kankanwadi. J.)

1. Rule. Rule made returnable forthwith with the consent of learned counsels for the parties, the petition is heard finally.

2. The petitioners have invoked the powers of this Court under Article 21, 226 and 227 of the Constitution of India and Section 482 of the Code of Criminal Procedure in order to quash the First Information Report (Hereinafter referred as 'FIR') bearing No. 00/2017 dated 14-07-2017 registered with Chalisgaon Police Station, District Jalgaon, subsequently renumbered as FIR No. 114 of 2017 dated 02-09-2017 for the offence punishable under Section 498-A, 354, 323, 504, 506 read with 34 of the Indian Penal Code.

3. It is not in dispute that, the petitioner No.1 got married with respondent No.2 on 17-12-2014. There is no issue born to them. Petitioners No.2 and 3 are the parents of petitioner No.1. Petitioners No.4 and 5 are the sisters of petitioner No.1 and daughters of petitioners No.2 and 3.

4. Respondent No.2 had filed report with the Police Station stating that, at the time of marriage her father had given 30 Tolas

gold ornaments and domestic articles like fridge, television, laptop etc. In all her father had spent about Rs.20 to 25 lakhs on the marriage. After marriage she went to cohabit with petitioner No.1. She has stated that, she was treated properly for about two months only after the marriage, but thereafter she was harassed by all the petitioners. Petitioners No.4 and 5 are the married sisters of petitioner No.1; but they used to give phone call to petitioners No.1 and 3 daily. It is stated that, petitioner No.2 had ill-eye on her. Petitioner No.2 runs an educational institute by name 'Chaitanya Vidya Mandir'. Petitioner No.1 is Head Master of the school and petitioner No.3 is the Chairman. Petitioner No.2 had tried to outrage the modesty of the informant. All the petitioners were asking her to bring amount of Rs.8,00,000/- from her father in order to get an approval to their educational institution. She was unable to fulfill the demand, and therefore, she was driven out of the house. After her maternal uncle and father intervened, she was left at the matrimonial home, however at that time petitioner No.1 told her father that, if he would give amount of Rs.8,00,000/- then only he will allow the informant to cohabit. When she had tried to disclose the fact about the ill-acts of petitioner No.2 to petitioners No.1 and 3, they assaulted her, took away her ornaments and driven her out of the house. When again her relatives took her for cohabitation on 13-07-2017 at that time petitioners No.1 and 3 refused to take her

and told that petitioner No.1 want divorce. Thereafter, the informant had lodged the FIR.

5. The petitioners have contended that, unfortunately the marital ties between the petitioner No.1 and respondent No.2 did not remain peaceful and culminated into unhappy being. Several litigations were filed by the informant and petitioner No.1 against each other in different courts. However, they have now resolved to bring an end to all the disputes between them. They both had filed a joint Hindu Marriage Petition No.362 of 2017 under Section 13 (b) of the Hindu Marriage Act in the Court of Civil Judge Senior Division, Dhule, for divorce by mutual consent, accordingly the order has been passed. In view of amicable settlement, it is stated that, the informant has no desire to go ahead with the report and she has no objection to quash the proceedings. The petitioners have therefore prayed for quashing the FIR filed against them.

6. The affidavit-in-reply has been filed by respondent No.2 giving no objection.

7. It will not be out of place to mention here that, when the matter was taken up by this Court on 08-02-2018 and even the order was dictated, the parties went out of the Court and there was dispute between them outside the court hall. Thereafter, the respondent No.2 came inside the Court and told that, she is

withdrawing the consent, and therefore, this Court simply adjourned the matter. The said order, that was dictated was not signed. However today again, the respondent No.2 has filed affidavit stating that though there was dispute on 08-02-2018, outside the Court hall, the parties have resolved that dispute also. It is stated that, the petitioners and respondent No.2 have tendered an unconditional apology for the same. Now she is giving consent and expresses no hesitation or objection for allowing the petition for quashing.

8. On both the occasions the respondent No.2 was before this Court. It was ensured from her, whether her consent is voluntary or not. Though she had lateron withdrawn the consent on 08-02-2018, now she has stated that the dispute is resolved. We take the subsequent consent also as voluntarily given. The earlier consent was withdrawn by her under some circumstances, but better sense appears have prevailed over them.

9. It is to be noted that, the petitioner No.1 and respondent No.2 were husband and wife. There was dispute between them but due to the differences various proceedings have been filed by them against each other; now it appears that, their dispute has been resolved and they have obtained divorce by mutual consent. The terms of their compromise are produced on record. It appears that, they have decided to part happily, and therefore, when they have

resolved their dispute, we find this to be a fit case where we should exercise the inherent powers of this Court. Reliance can be placed on *M/s. Shakuntala Sawhney V. Mrs. Kaushalya Sawhney and Ors.*, MANU/SC/0532/1979 : [1979] 3SCR639, wherein Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:

"The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.

37. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice."

38. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

39. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by

exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation."

10. Further reliance can be placed on *Gian Singh Vs. State of Punjab and Another* [2012 SCC (10) 303], wherein it is observed that,

"However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

11. Therefore, taking into consideration the observations

since the FIR is arising out of matrimonial dispute and now the dispute is settled, the petition deserves to be allowed. Hence, following order:-

ORDER

- 1) Petition is hereby allowed.
- 2) Rule is made absolute in terms of prayer Clause-'B'.

(SMT. VIBHA KANKANWADI)
JUDGE

(PRASANNA B. VARALE)
JUDGE

vjg/-.