

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 100 OF 2020

Anish Vinod Jain and Ors.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Jitesh R. Agarwal for the Petitioners.

Ms. Kajal Solanki i/by Mr. Neeraj A. Agarwal for Respondent No. 2.

Mrs. S.D. Shinde, APP for Respondent – State.

CORAM : S. S. SHINDE &
V. G. BISHT, JJ.

DATE : 13th MARCH, 2020

PER COURT :

1. **Rule.** On Rule Ms. Kajal Solanki waive service for Respondent No. 2 and learned APP Mrs. S.D. Shinde waive service for Respondent – State. Heard with the consent learned counsels appearing for the parties.

2. Learned counsel appearing for the Petitioner and second Respondent submits that, Petitioners and second Respondent have amicably settled the dispute. Learned counsel appearing for the second Respondent has tendered across the bar affidavit of the Respondent No. 2 dated 07th January,

2020. Same is taken on record and marked 'X' for identification. Parties are identified by the counsel appearing for the respective parties.

3. It is stated in the said affidavit that, the FIR was registered due to some misunderstanding and now the Petitioners and second Respondent have resolved their dispute and therefore, it is prayed that FIR may be quashed.

4. The Petitioner No. 1 i.e. husband and second Respondent i.e. wife are present before the Court. On specific query to them, they stated that from last 8 months they are happily residing. Second respondent stated that she has no objection for quashing the FIR. It is her voluntary act to enter into an amicable settlement and without any coercion. Since the Petitioners and second Respondent have amicably settled the dispute arising out of matrimonial discord, continuation of further proceedings arising out of FIR No. 0137/2018 registered with Bhayandar Police Station, Mumbai for the offences punishable under Sections 406, 498A, 504, 506 read with Section 34 of the Indian Penal Code, would be an exercise in futility and wastage of time.

5. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ has held that, the criminal cases having overwhelmingly and

¹ 2012 (10) SCC 303

predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offence arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. It is further held that, as inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guidance engrafted in such power viz.: (I) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

6. In the light of above the and since the Petitioners and second Respondent have amicably settled the dispute and to that effect consent terms are placed on record, we are inclined to allow this Petition in terms of prayer clause 'a', which reads as under :-

a. that this Hon'ble Court be pleased to issue appropriate writ, order and direction directing the quashing of FIR No. 0137/2019 registered under the provisions of Section 406, 498A, 504, 506, 34 of IPC registered by the Respondents No. 1 at the instance of the Respondent No. 2 on such terms as this Hon'ble Court may deem fit and proper.

7. Rule made absolute in terms of prayer clause 'a'. Accordingly, the Writ Petition stands disposed of.

8. Parties to act upon an authenticated copy of this order.

(V.G. BISHT, J.)

(S. S. SHINDE, J.)