

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 6445 OF 2019

Manglam Roongta & Ors. ...Petitioners

Versus

State of Maharashtra & Anr. ...Respondents

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Mr.S.P. Rajepandhare i/b. Ms. Purna C. Patnaik for the Petitioners.

Mr.F.R.Shaikh, APP, for Respondent No.1-State.

Mr.Jyotiram S. Yadav for Respondent No.2.

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

DATE : 18TH MARCH, 2020

JUDGMENT (PER: S. S. SHINDE, J.)

1. At the outset, learned Counsel appearing for respondent No.2 submits that he has not yet filed Vakalatnama. He has tendered across the bar Vakalatnama and the same is taken on record.

2. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the respective parties.

3. By this petition under Article 226 of the Constitution of India r/w. Section 482 of the Code of Criminal Procedure, the petitioners seek to quash First Information Report No. 0108 of 2019 (for short,

“FIR”) dated 3rd April, 2019 registered with Kopar Khairane Police Station, Navi Mumbai for offences punishable under Sections 498A, 406 r/w 34 of the Indian Penal Code.

4. The petitioners have served respondent No.2 by private service. Respondent No.2 has filed her appearance.

5. The learned Counsel appearing for the petitioners and respondent No.2 jointly submit that the parties have amicably settled their dispute and to that effect the consent terms have already been filed in the Court of Principal Judge Family Court, Central District, Tis Hazari Courts, Delhi.

6. The learned Counsel appearing for the petitioners invites our attention to the said consent terms, which are placed on record in compilation of this petition from page Nos. 43 to 63.

7. The learned Counsel appearing for respondent No.2 has tendered across the bar a copy of the affidavit dated 18th March, 2020. The same is taken on record and marked ‘X’ for identification.

8. On the basis of grounds taken in the petition and the affidavit tendered today so also other affidavits placed on record from time to time, learned Counsel appearing for the petitioners and respondent No.2 pray for quashing the FIR, which is impugned in the present petition.

9. We have carefully perused the pleadings and grounds taken in the petition, annexures thereto and the terms of the settlement arrived at between the parties before the Court of Principal Judge Family Court, Central District, Tis Hazari Courts, Delhi in HMA Petition No. 82 of 2019. In paragraph Nos. 1 to 5 of the affidavit filed by respondent No.2, it is stated thus :

“1. I say that I am residing at the aforesaid address along with my family i.e. Father Rakesh Ramesh Gupta, Mother Prity Rakesh Gupta & Brother Shitesh Rakesh Gupta. I say that I have filed Complaint against the Petitioners at the Koparkherne Police Station, Navi Mumbai on basis of which F.I.R.No. 0108/2019 for offence punishable under Section 498-A, 406 & 34 of Indian Penal Code has been registered.

2. I say that, the I and Petitioner with the help of our family members amicably settled the dispute vide Settlement Deed dt. 19/09/2019 whereby I and

Petitioner have agreed to withdraw various litigations filed before various Court on some terms and condition including the present FIR bearing no. 0108/2019 registered for offence punishable U/s. 498-A, 406 & 34 of IPC at Koperkherne Police Station, Navi Mumbai, Maharashtra.

3. I am not intending to proceed with the matter and agree to withdraw the Complainant/ FIR with own free consent in pursuance of Settlement Deed dt. 19/09/2019.

4. I say that I am not intending to proceed with the matter and I am not having any grievance/ complaint against the present Petitioners, accused in the said case and I am ready to withdraw the said proceeding.

5. I am executing present Affidavit with my free own consent and without influence and pressure of any person to support the Criminal Writ Petition under Section 482 of Code of Criminal Procedure filed by Manglam Roongta, Sushil Kumar Roongta, Manju Roongta & Surbhi Garg i.e. Petitioner Nos. 1,2,3 & 4 for quashing proceeding of F.I.R. No. 0108/2019 registered with Koparkherne Police Station, Navi Mumbai, Maharashtra.

10. During the course of hearing of this petition, petitioner No.1 is present and he has handed over a Demand Draft of Rs. 15,00,000/-

(Rupees Fifteen Lacs Only) drawn in the name of respondent No.2 to his Counsel. The learned Counsel appearing for the petitioners handed over the said Demand Draft to learned Counsel appearing for respondent No.2 and in turn the same is handed over to respondent No.2. Respondent No.2 has verified the contents of the said Demand Draft and amount mentioned therein and also acknowledged the receipt of the said Demand Draft.

11. In the light of statements made across the bar by learned Counsel appearing for respective parties and the affidavit filed by respondent No.2 so also other material placed on record, it is crystal clear that respondent No.2 is not going to support the allegations made in the FIR since the settlement is arrived at between the petitioners and respondent No.2 before the Family Court, Delhi. It is also stated in the affidavit filed by respondent No.2 that she is not interested to continue further proceedings arising out of the said FIR and she has no objection to quash FIR No. 0108 of 2019 for offence punishable under Sections 498A, 406 r/w. 34 of the Indian Penal Code registered with Koper Khairane Police Station, Navi Mumbai. It is also stated in the affidavit that the act of respondent No.2 to enter

into compromise is her voluntary act, without any force.

12. Since the petitioners and respondent No.2 have amicably settled their dispute as averred in the affidavit filed by respondent No.2 and respondent No.2 has no objection for quashing FIR No. 0108 of 2019 registered with Kopar Khairane Police Station, Navi Mumbai for offences punishable under Sections 498A, 406 r/w. 34 of the Indian Penal Code, further continuation of proceedings arising out of aforementioned crime would be exercised in futility and abuse of the process of the Court.

13. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that, the criminal cases having overwhelmingly and 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

1 2012 (10) SCC 303

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.

14. In the light of discussion hereinabove and in order to secure the ends of justice and to prevent abuse of the process of the Court, we are inclined to allow the petition. In the result, FIR No. 0108 of 2019 registered with Kopar Khairane Police Station, Navi Mumbai for offences punishable under Sections 498A, 406 r/w. 34 of the Indian Penal Code is quashed and set aside.

15. Rule made absolute in above terms. Writ Petition is allowed to above extent and stands disposed of accordingly.

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

(V.G.BISHT, J.)

(S.S. SHINDE, J.)