

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.41 of 2021

Mandira
Salgaonkar

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Mandira Salgaonkar
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- | | | | |
|----|---------------------------------------|---|---------------|
| 1. | Samir Sudhir Chaturvedi | } | |
| | Age 31 years, Occupation -Service | } | |
| | | } | |
| 2. | Sudhir Chaturvedi | } | |
| | Aged 51 years, Occupation – Business} | } | |
| | | } | |
| 3. | Smt.Seema Sudhir Chaturvedi | } | |
| | Aged 46 years, Occupation-Housewife} | } | |
| | All Presently residing at | } | |
| | Room No.203, bach Heaven Two, | } | |
| | Juhu, Juhu Tara Road, Santacruz (W)} | } | |
| | Mumbai- 400049 | } | .. Applicants |

VERSUS

- | | | | |
|----|------------------------------------|---|----------------|
| 1. | The State of Maharashtra | } | |
| | (At the instance of Sr.Inspector | } | |
| | Santacruz Police Station | } | |
| | | } | |
| 2. | Vaishali Chaturvedi | } | |
| | Age-27 years, Occupation – Service | } | |
| | 201, I Wing, Bhoomi Park, Phase V, | } | |
| | Jankalyan Nagar, Marve Road, | } | |
| | Malad (W), Mumbai 400095 | } | .. Respondents |

...

Ms.Akshata Timmapur i/b The Law Point for the Applicants

Mr.Nikhil Mendge for Respondent No.2.

Mrs.Vaishali Chaturvedi-Respondent No.2 present through VC.

Mr.K.V.Saste-APP for the Respondent/State.

CORAM: S.S.SHINDE &
MANISH PITALE, JJ.

DATED : 22nd JANUARY, 2021

M.M.Salgaonkar

JUDGMENT (Per Manish Pitale, J.)

1. By this application, filed under Section 482 of the Criminal Procedure Code (for short, “the Cr.PC.”), the applicants are seeking quashing of First Information Report (FIR) dated 7th May, 2019 registered against them at Police Station Santacruz for the offences punishable under Sections 498-A, 406, 323, 504, 506 read with Section 34 of IPC. Respondent No.2 is the original complainant at whose behest the said FIR was registered.

2. Since the dispute between the parties arose out of the matrimonial discord between applicant No.1 and respondent No.2, efforts were made to amicably settle the dispute. In pursuance of the said exercise, the parties have arrived at a mutual settlement, as a consequence of which, a petition for divorce by mutual consent has been already filed under Section 13-B of the Hindu Marriage Act, 1955. Respondent No.2 has consented to put an end to the proceedings initiated in pursuance to the said FIR. Respondent No.2 has also filed an affidavit in this Court reiterating the consent terms arrived at between the parties before the Family Court. Respondent No.2 has joined the proceedings before this Court through video conferencing and she informed this Court that the affidavit as well as the consent terms have been signed by her on her own free will and without any coercion.

3. The Hon’ble 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

¹ 2012 (10) SCC 303

different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences 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 has also held that inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

4. In view of the said position of law laid down by the Hon'ble Supreme Court in the case of **Giansingh** (supra) and applying the same to the facts of the present case, it is evident that continuation of proceedings in pursuance of the aforesaid FIR would be of no consequence and that therefore, the present application deserves to be allowed with the consent of respondent No.2.

5. In view of the above, the application is allowed in terms of prayer clause (a), which reads as under :

“This Hon'ble Court be pleased to quash the F.I.R. bearing C.R.No.212 of 2019 dated 07/05/2019 being registered with Santacruz Police Station for offences punishable

U/s.498(A), 406, 323, 504, 506 r/w 34 of IPC, in the interest of justice.”

6. The criminal application is disposed of.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)