

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

CRIMINAL APPLICATION NO. 44 OF 2021

1. Viran Pratap Lilakar
Age: 29 years, Hindu, Occ: Service.
2. Mr. Pratap Bhikha Lilakar
Age:- 60 years, Occupation:- Service.
3. Mrs. Saroj Pratap Lilakar
Age:-49 Years, Occupation:- Housewife.
4. Kumar Jimit Pratap Lilakar
Age:- 28 Years, Occupation:- Service,
All residing at:- B/305,
New Siddhant Co-operative Housing
Society, 100 Feet Road, Vasai (W),
Dist. Thane 401202.

...APPLICANTS

Versus

1. Mrs Dikshita Viran Lilakar
Age: 22 years, Hindu, Occ: Student,
Residing at flat No. 206, A wing,
Abhilasha, Chandivali, Mhada Colony,
Andheri (East), Mumbai- 400072.
2. The State of Maharashtra
At the instance of Sakinaka Police
Station, Mumbai.

...RESPONDENTS

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Mr. Sanjeev S. Harikar for Applicants.
Mr. C.M. Lokesh for Respondent No. 1.
Mrs. S.D. Shinde, APP for State.
Respondent No. 1 is present in the Court.

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

DATE : 4th MARCH, 2021.

ORAL JUDGMENT [PER S.S. SHINDE, J.]:

. Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2. This application is filed with following substantive prayer:-

a. The criminal proceedings pending on the file of the Ld. Metropolitan Magistrates 66th Court, Andheri, Mumbai, bearing No. 1350/PW/2019, arising out of C.R. No. 380 of 2018 registered with Sakinaka Police Station, Mumbai, may kindly be quashed and set aside in the interest of justice;

3. Learned counsel appearing for the applicants and Respondent No. 1 submits that the parties have amicably settled the dispute and to that effect the Respondent No. 1 has filed the affidavit. Paragraphs 1 to 5 of the said affidavit read as under:-

1. I say that I had taken Decree of Divorce and agreed and undertook to withdraw the said criminal complaint pending on the file of the Ld. M.M's 66th Court, Mumbai being C.C. No. 1350/PW/2019. Accordingly, the said divorce petition No. A-3011 of 2018 came to be converted into a petition for mutual divorce and the divorce was granted to me by the Ld. Family Court, at Bandra by passing an order, Judgment and Decree

dated 10/1/2020 in the said divorce petition in terms of the said consent terms. Hence the marriage between me and Applicant no. 1 Viran lilakar has been dissolved with effect from 10/1/2020 by virtue of the said order and Decree of Family Court dated 10/1/2020.

2. I say that the above referred Criminal Case was an outcome of our difference of opinion with each other, and the cause of lodging the said complaint does not survive any more. I say that, now I does not wish to pursue the said complaint against any of accused therein including the Applicant No. 1 and the Applicants No. 2 to 4 hence no useful purpose will be served by continuing the criminal proceedings arising out of the aobvmentioned complaint.

3. I say that, if the said criminal proceedings are allowed to be continued, then the same will cause great inconvenience, harassment and embarassment to the Applicants and to me. Therefore it would be in the interest of justice that the said criminal proceedings be quashed and set aside as the cause for filing the same does not survive on account of the settlement between the parties.

4. I say that before this Hon'ble Court that, I have willingly decided on mutual consent to

approach this Hon'ble Court for Quashing of the criminal proceeding arising out of the said complaint, without any fraud, force and/or undue influence being practiced upon me. I say that, there is no collusion or connivance of whatsoever nature between the applicants and me in filing this Affidavit and the Applicant.

5. I say that the offences levelled against the Applicant No. 1 and Applicants No. 2 to 4 are minor in nature and all of those except offence U/s. 498(A) are compoundable at the instance of victim with the permission of the Court u/s 320 of Cr.P.C. Hence the Applicants have no other alternative but to approach this Hon'ble Court invoking its inherent powers u/s 482 of Cr.P.C. for quashing the said Criminal Proceeding arising out of the said FIR. Whatever stated above is true to my own knowledge and I believe to be true.

4. Respondent No. 1 is present before this Court. She stated that it is her voluntary act to enter into the settlement and join the prayer of the applicants for quashing impugned FIR and charge sheet.

5. Since the parties have amicably settled the dispute and Respondent No. 1 joined the prayer of applicants for quashing criminal proceeding pending on the file of the Ld. Metropolitan Magistrates 66th

Court, Andheri, Mumbai, bearing No. 1350/PW/2019, arising out of C.R. No. 380 of 2018 registered with Sakinaka Police Station, no fruitful purpose would be served by continuing the aforesaid criminal proceedings. The continuation of aforesaid proceeding would tantamount to the abuse of the process of the Court.

6. 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 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

1 2012 (10) SCC 303

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.

7. In the light of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of the Court, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause (a). Rule made absolute to above terms. The application stands disposed of.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)