

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

CRIMINAL APPLICATION NO.49 OF 2020

1. Shri Paritosh Akhilesh Chaube
2. Shri Akhilesh Sarayu Prasad Chaube ... Applicants
3. Smt. Shradha Akhilesh Chaube

Vs.

1. Ashmi Paritosh Chaube ... Respondents
2. State of Maharashtra

Mr. Ashok Mishra i/b Solicis Lex for the Applicant
Mr. J.P. Yagnik, APP, for Respondent – State
Mr. Paritosh Chaube, Petitioner No.1 and Ms. Ashmi P. Chaube,
Respondent No.1 – present through Video Conferencing

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

DATED: FEBRUARY 26, 2021

ORAL JUDGMENT (PER MANISH PITALE, J.):

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally at the stage of admission.

2. This is an Application filed under section 482 of the Code of Criminal Procedure seeking quashing of chargesheet and First Information Report No.77/2017 registered with Govandi Police

Station for the offences punishable under sections 498-A and 406 read with section 34 of the Indian Penal Code.

3. Respondent No.1 (original complainant) has given consent for quashing the aforesaid First Information Report and the chargesheet. It is pointed out that since the dispute between the Applicants and Respondent No.1 has been amicably settled, consent terms were already filed on 20th December, 2019 before the Family Court at Bandra. Additionally, an affidavit has been filed by Respondent No.1 before this Court in the present Application, the relevant portion of which reads as under:

“1. I say that I am the Respondent No.1 in the above matter and I am fully aware of the facts and circumstances of the present matter.

2. I say that I was the wife of Petitioner No.1 and due to various matrimonial issues and differences between us. I had registered an F.I.R. bearing C.R. No.77 of 2017 u/s 498(A), 406 and 34 of IPC with Govandi Police Station against the Petitioners.

3. I say that out of the said F.I.R. a Charge sheet is filed before 57th M.M. Court at Kurla which is numbered as 1291/PW/2018.

4. I say that after a long legal battle for the last 3 years with the intervention of friends, family and well-wishers I and the Petitioner no.1, we have arrived at an amicable settlement and have decided to mutually part ways and lead a peaceful life.

5. I say that accordingly I along with Petitioner No.1 had applied for mutual consent divorce under section 13B of the Hindu Marriage Act, 1955 before the Hon'ble Family Court at Bandra, Mumbai, which was allowed by Ld.Judge P.L. Palsingankar presided at Family court No.2 by its order dated 20th December, 2019 and accordingly divorce was granted in Petition No.A-1078 of 2017. Wherein I along with Petitioner No.1 have entered into terms of settlement before the Hon'ble Family Court at Bandra, Mumbai and I and the Petitioner No.1 have entered into terms of settlement before the Hon'ble Family Court at Bandra, Mumbai and I and the Petitioner no.1 have amicably decided to withdraw all allegations and cases filed against each other. Accordingly, I am filing this affidavit and giving my No Objection to quash/set aside the proceedings pending before the 57th Court of Metropolitan Magistrate at Kurla which is registered as Case No.1291/PW/2018 in C.R. No.77 of 2017 qua the Petitioners.

6. I say that the present affidavit be also considered as my No Objection to quash Case No.1291/PW/2018 in C.R. No.77 of 2017.

7. I say that, I have signed this present Affidavit after consulting my lawyers and there is no force, fraud or coercion in signing this Affidavit."

4. From the contents of the aforesaid affidavit as also the consent terms filed before the Family Court at Bandra, it is evident that the dispute between the parties has now been settled. The dispute arose out of matrimonial discord between Applicant No.1 and Respondent No.1, which appears to have been resolved.

5. Respondent No.1 has personally joined the hearing through Video Conferencing today. We have interacted with her and she has stated that she has sworn the affidavit on her free will and without any coercion.

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 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 is further held that as inherent

1 2012 (10) SCC 303

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.

7. Applying the ratio of the aforesaid judgment of the Hon'ble Supreme Court in the facts of the present case, it becomes evidence that this is a fit case for permitting quashing of the impugned First Information Report, in view of the settlement between the parties. It is evident that Respondent No.1 will not be pursuing her allegations made against the Applicants and that the further proceedings in pursuance of the said First Information Report would be of no consequence.

8. In view of the above, the Application is allowed in terms of prayer clauses (b) and (c), which read as under:

“(b) quash the F.I.R. bearing C.R. No.77/2017 U/S: 498-A, 406 read with. Section 34 of IPC registered on 25.04.2017 with Govandi Police Station.

(c) quash the criminal case bearing No.1291/PW/2018 pending before 57th Court of Metropolitan Magistrate at Kurla and subsequent proceeding emanating therefrom in view of the settlement/compromise between Petitioner No.1 and Respondent No.1”.

9. Rule made absolute accordingly. Criminal Application stands disposed of.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)

Vishwanath
S. Sherla

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signed by
Vishwanath
S. Sherla
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