

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.699 OF 2021

- 1] Mr. Mandeep Singh Tanda]
Age : 34 years,]
Occ : presently unemployed]
Presently Residing at : Flat No.402,]
Building 20A, FAM Co-op. Housing,]
Plot No.19/19-A, Sector 11,]
Kopar Khairane, Navi Mumbai 400709]
2] Mrs. Ranjit Kaur Tanda]
Age : 54 years, Occ : Housewife]
Presently Residing at : Flat No.402,]
Building 20A, FAM Co-op. Housing,]
Plot No.19/19-A, Sector 11,]
Kopar Khairane, Navi Mumbai 400709]
3] Mr.Karamjeet Singh Tanda]
Age : 64 years, Occ : Service]
Presently Residing at : Flat No.402,]
Building 20A, FAM Co-op. Housing,]
Plot No.19/19-A, Sector 11,]
Kopar Khairane, Navi Mumbai 400709]
].... Petitioners.

Versus

- 1] The State of Maharashtra]
(Through the Senior Police Inspector]
Kalamboli Police Station]
C.R. No.193 of 2017]
2] Smt. Sonia Kaur Mandeep Singh Tanda]
Aged about 32 years.]
Occupation : Service]
Residing at : Flat No.601, 6th Floor,]
Pacific Heights, Sector – 11, Plot No.17]
Kalamboli, Panvel City – 410218]
]..... Respondents.

Mr. Manish Rai for the Petitioner.
Mrs. S D Shinde, APP for the Respondent/State.
Mr. S R Phanse for Respondent No.2.

CORAM : S. S. SHINDE,
MANISH PITALE, JJ
DATE : 17th FEBRUARY 2021

JUDGMENT : (PER S S SHINDE, J)

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

2 This Writ Petition is filed for the following substantial reliefs :-

- (a) The RCC No.757/2017 presently pending before the Ld. JMFC at Panvel, Dist. Raigad arising out of CR No.I 93 of 2017 registered with Kalamboli Police Station, be quashed and set aside.
- (b) That the Look Out Circular issued by Kalamboli Police Station, if pending against the Petitioner No.3, pertaining to CR No.I 93 of 2017 registered with Kalamboli Police Station, may kindly be cancelled.

3 The learned counsel appearing for the Petitioners and the learned counsel appearing for Respondent No. 2 jointly submit that the parties have amicably settled the dispute. It is further submitted that Petitioner No.1 is the husband of Respondent No.2, they got married on 28/11/2015 at Kharghar. The Respondent No.2 is the First Informant in CR No.I 93 of 2017 registered at Kalamboli Police Station. It is also submitted that the Chargesheet is filed against Petitioner Nos.1 and 2 before the Ld. JMFC at Panvel in RCC No.757 of

2017 and the matter is pending for hearing. It is also submitted that the chargesheet against Petitioner No.3 is not yet filed as Petitioner No.3 was out of India. The learned counsel for the parties further submitted that through mediation the dispute between the parties has been resolved and settled, and pursuant to the said settlement, Petitioner No.1 paid Rs.22,00,000/- (Rupees Twenty Two Lakhs only) to the 2nd Respondent by Demand Draft as permanent alimony. It is submitted that Consent Terms dated 11/01/2021 signed by the Petitioner No.1 and Respondent No.2 has been filed before the Ld. Civil Judge Senior Division at Panvel in HMP No.58 of 2019.

4 It is submitted by the learned counsel for Respondent No. 2 that it is the voluntary act of Respondent No. 2 to arrive at settlement and give consent for quashing the proceedings being RCC No.757/2017 pending before the JMFC, Panvel.

5 Respondent No.2 is present in Court. She is identified by her advocate. When we interacted with her, she stated that it is her voluntary act without coercion to enter into the settlement and sign the Consent Terms. She further stated that she has no objection for quashing the proceedings pending before the learned JMFC, Panvel. She further stated that she has received Rs.22,00,000/- (Rupees Twenty Two Lakhs only) from the Petitioner No.1 by Demand Draft.

6 In support of her aforesaid statements, Respondent No.2 has filed her affidavit before this Court. In paragraphs 1 to 5 of her affidavit, Respondent No.2 has stated thus :-

- “1 I say that I had filed Criminal Complaint against the Petitioners under Sections 498A, 406, 323, 504, 506, 34 of IPC and section 3 and 4 of Dowry Prohibition Act, 1961 with Kalamboli Police Station, Dist. Raigad being CR No.I-93 of 2017. I say that chargesheet in the above mentioned matter has been filed and the said case is pending before Ld. JMFC Panvel being RCC No.757/2017.
- 2 I say that the Petitioner No.1 is my husband, Petitioner No.2 is my mother in law and Petitioner No.3 is my father in law. I say that we have settled our dispute at Gurudwara Guru Nanak Darbar, New Panvel the mediation took place between both parties in presence of respectable persons namely 1. Mr. Gurdev Singh 2. Mr. Harvinder Singh Butter 3. Mr. Jaspal Singh Sidhu 4. Mr. Baldev Singh Samraa 5. Mr. Charanjeet Singh. Since both the parties have agreed to settle the dispute and also agree for Divorce by Mutual Consent.
- 3 I say that the HMP No.58/2019 has been converted into a Petition for Divorce by Mutual Consent and I have filed my evidence therein, withdrawing all my allegations

against Petitioners herein and agreeing for divorce. I say that the said settlement was arrived at by the mediation of the elders in our community in Gurudwara Guru Nanak Darbar, New Panvel.

4 I say that now we have settled our dispute mutually, I have withdrawn all my allegations against Petitioners and I have no grievance against the Petitioners and therefore do not wish to proceed with the above mentioned Criminal Complaint.

5 I therefore, say that I have no objection if the abovementioned Criminal Complaint is quashed and set aside in view of the above settlements as per the Consent Terms filed and in the interest of justice.”

7 The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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

1 2012 (10) SCC 303

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 guideline engrafted in such power viz.: (I) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

8 Since the Petitioners and the 2rd Respondent have amicably settled the dispute and, to that effect the Petitioner No.1 and the 2nd Respondent have filed the Joint Affidavit of Consent Terms before the Court of learned Civil Judge Senior Division, Panvel in HMP No.58 of 2019, the copy of which is annexed to this Petition at Page No.62 of the Writ Paper Book, no fruitful purpose would be served in continuing the proceedings pending before the learned JMFC, Panvel.

9 In the light of discussion in foregoing paragraphs, it is abundantly clear that the Respondent No. 2 is not going to support the allegations made in the FIR and further continuation of proceedings being RCC No. 757 of 2017 pending before the learned JMFC, Panvel would tantamount to the abuse of the process of the Law/Court. Since the parties have amicably settled the dispute and in terms of settlement Rs.22,00,000/- (Rupees Twenty Two Lakhs

only) have been paid by Petitioner No.1 to Respondent No.2 by way of Demand Draft and in view of the said settlement, the Respondent No.2 is not interested in participating the proceedings pending before the learned JMFC, Panvel, the chances of the conviction of the Petitioners would be remote and bleak. In that view of the matter, the writ Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer clauses (a) and (b) which read thus :-

- (a) The RCC No.757/2017 presently pending before the Ld. JMFC at Panvel, Dist. Raigad arising out of CR No.I 93 of 2017 registered with Kalamboli Police Station, be quashed and set aside.
- (b) That the Look Out Circular issued by Kalamboli Police Station, if pending against the Petitioner No.3, pertaining to CR No.I 93 of 2017 registered with Kalamboli Police Station, may kindly be cancelled.

10 The parties to abide strictly by the Consent Terms arrived at between them.

11 Rule is made absolute to the above extent and, the Writ Petition stands disposed of accordingly.

[MANISH PITALE, J]

[S. S. SHINDE , J]