

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.594 OF 2021

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|----|---|---|-----------------|
| 1. | Viral Pravin Maru |] | |
| 2. | Pravin V. Maru |] | |
| 3. | Hansa Pravin Maru |] | |
| 4. | Krina Pravin Maru |] | |
| 5. | Jitesh Pravin Maru |] | |
| | Temporary R/o. Flat No.9, Ganga |] | |
| | Devi Bhuvan, Ali Premji Bhai |] | |
| | Road, rant Road (E), Mumbai-7 |] | |
| | and Permanent Address at Flat |] | |
| | No.1603 and 1703, 16 th and 17 th |] | |
| | Floor, Leelatara Tower, |] | |
| | Fanaswadi, Next to Balaji Mandir, |] | |
| | Charni Road, Mumbai -2. |] | ... Petitioners |

Versus

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|----|-------------------------------|---|------------------|
| 1. | The State of Maharashtra |] | |
| | (Through V.B. Nagar Police |] | |
| | Station, Mumbai.) |] | |
| 2. | Mrs. Nilam Viral Maru, |] | |
| | R/o. Flat No.5, "B" Wing, |] | |
| | Nightingale CHS, Opp. Micheal |] | |
| | High School, LBS Road, Kurla |] | |
| | (W), Mumbai – 400 070. |] | Respondents |

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Ms. Sangeeta Salvi for the petitioners.

Mrs. S.D. Shinde, A.P.P. for respondent-State.

Ms. Jayamala Ostwal with Ms. Komal Gosavi i/b M/s. J.J. Associates for respondent No.2.

Respondent No.2 is present in the court.

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

DATED : 11TH FEBRUARY, 2021.

ORAL JUDGMENT:- [S.S. Shinde, J.]

1. At the outset, learned counsel appearing for the petitioners, on instructions from the petitioners, seeks leave to amend and delete Ground Nos.(f) and (g) from the grounds taken in the petition.

2. Leave granted. Amendment to be carried out forthwith.

3. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.

4. This writ petition is filed for the following substantive relief:

“b. The Hon’ble Court be pleased to issue the appropriate Writ, Order or Direction, thereby

quashing and setting aside the impugned FIR along with charge-sheet in C.R. No.37 of 2018 registered with V.B. Nagar Police Station, Mumbai against the Petitioners and proceeding of Case No.PW/1617 pending before the Hon'ble M.M. 59th Court, Kurla."

5. Learned counsel appearing for the petitioners and respondent No.2 jointly submit that, the parties have arrived at an amicable settlement and to that effect, consent terms have been filed before the Family Court at Bandra. Respondent No.2 has also filed an affidavit before this court. Paragraph Nos.4, 5 and 6 of the said affidavit read as under:

"4. I further say that it is true that Petitioner had filed M.J. Petition No.A-1439 of 2018 u/s. 13(a) of Hindu Marriage Act, 1955 for dissolution of the marriage against me before the Hon'ble Family Court, Bandra. That pending the hearing and final disposal of the petition we both i.e. the Petitioner and myself have settled our matrimonial dispute amicably and filed Consent Terms dated 15.01.2021 before the Ld. Family Court which are annexed with the present Petition.

5. I further say that I specifically deny all allegations made in clause (f) & (g) of the grounds mentioned in the Petition and I feel that all these allegations are unwarranted when both parties have settled all issues amicably. In fact there was no need for the Petitioner to make such averments / statements in the present petition in view of the consent terms. I request to this Hon'ble Court to

direct the Petitioner to delete both Grounds (f) & (g) from the Petition.

(6) I further say that in view of Consent Terms I have no objection to quash 498-A proceedings i.e. F.I.R. along with Charge Sheet filed in C.R. No.37 of 2018 dated 14/02/2018 registered with V.B. Nagar Police Station filed by against the Petitioners in view of the Para 9 of the Consent Terms dated 15.01.2021.”

6. Respondent No.2 is present before this court. She has been identified by her lawyer. We have interacted with respondent No.2. She has stated that it is her voluntary act to enter into the settlement and give consent for quashing the proceedings pending before the M.M. 59th Court, Kurla.

7. Upon hearing the learned counsel appearing for the parties and in view of the fact that respondent No.2 has voluntarily, without any coercion, entered into an amicable settlement, we are of the opinion that no fruitful purpose would be served by continuing the pending proceedings in C.R. No.37 of 2018 registered with V.B. Nagar Police Station and the proceedings of Case No.PW/1617/2017 pending before the M.M. 59th Court, Kurla.

8. The Supreme Court in the case of *Gian Singh v. State of Punjab & Anr.*¹ has held that the criminal cases having

¹ (2012) 10 SCC 303

overwhelmingly and predominately 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 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.

9. Having regard to the amicable settlement arrived at between the parties and in view of the affidavit filed by respondent No.2, we are of the opinion that the chance of conviction of the petitioners is bleak and remote and, therefore, the continuation of further proceedings arising out of the said FIR and Case No.PW/1617/2017 pending before the M.M. 59th

Court, Kurla, would be an exercise in futility and would tantamount to abuse of process of the court.

10. In the light of the discussions in the foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse of the process of the court, we are inclined to allow this petition. Accordingly, the petition is allowed in terms of prayer clause (b), which is reproduced at paragraph No.4 above.

11. Rule made absolute in the above terms.

12. The petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)