

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

CRIMINAL WRIT PETITION NO.512 OF 2020

Mikin Govindbhai Rathod & others

... Petitioners

Vs.

State of Maharashtra & another

... Respondents

Mr.Yashpal M. Thakur for the Petitioners
Ms.A.S. Pai, APP, for Respondent – State
Ms.Sharda Singh Kaur for Respondent No.2

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

DATED: JANUARY 21, 2021

ORAL JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. By consent of the parties, Rule made returnable forthwith and heard finally.

2. Learned Counsel appearing for Respondent No.2 has tendered across the bar an affidavit in reply on behalf of Respondent No.2; the same is taken on record. It is submitted by the learned Counsel for Respondent No.2 that petitioner No.1 and Respondent No.2 have amicably settled the dispute and therefore, on the basis of the said settlement, the impugned FIR may be quashed and set aside.

3. Paragraphs 2 to 4 of the said affidavit are reproduced as under:

“2. I say that, I the Respondent No.2 and the Petitioner No.1 have already executed and entered into Consent Terms dated 17th December, 2019 and on 29th January 2021 at Thane Family Court in Case No.1111/2019 before Hon’ble Judge Shri S.S. Indalkar matter kept for file claim affidavit to dissolve the said marriage, I Respondent No.2 and Petitioner No.1 both have to comply the same and stated that there is no grievance against each other. Therefore, at the request of the Petitioners, we have settled the matter amicably between ourselves. Pursuant to the said settlement, I hereby undertake to withdraw the case as well as confirm to remain present before this Hon’ble Court for giving my consent towards quashing of the present F.I.R. against the Petitioners.

3. I say that, I have settled the dispute with the Petitioners and hold no grievance against the Petitioners. Therefore, I do not wish to proceed further against the present Petitioners.

4. I view of the abovementioned facts and circumstances, I am hereby giving my voluntary consent for quashing of FIR bearing C.R. No.0269 of 2019 registered by Navghar Police Station, Bhayander, Thane for the offences punishable under Section 498-A, 323, 504, 506, 34 of Indian Penal Code against the present Petitioners who are the original Accused No.1, 2, 3 and 4. Accordingly, the present Petition filed by the Petitioners may be disposed off in view of the amicable settlement arrived between the parties.”

4. Respondent No.2 is identified by the learned Counsel appearing for her.

5. In view of the fact that Respondent No.2 and the petitioner No.1 have settled their dispute and consent terms have been arrived at between them before the Family Court at Thane, Respondent No.2 does not wish to proceed with the FIR No.269 of 2019 registered with Navghar Police Station, Bhayander, Thane for the offences punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code. Thus, it appears that Respondent No.2 is not going to support the case of the prosecution and the possibility of conviction is remote and bleak.

6. The Supreme Court in the case of **Gian Singh 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,

¹ 2012 (10) SCC 303

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 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 the discussion hereinabove and keeping in view the exposition of law by the Supreme Court in the case of **Gian Singh v. State of Punjab and Another**², continuation of the criminal proceedings on the basis of the FIR in question would be an exercise in futility and abuse of process of Court.

8. In this view of the matter, the present Criminal Application deserves to be allowed so as to secure the ends of justice. Accordingly, the Criminal Application is allowed in terms of prayer clause (b). The impugned FIR No.0269 of 2019 registered with

2 2012 (10) SCC 303

Navghar Police Station, Bhayander, Thane for the offences punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code is quashed and set aside.

9. Rule made absolute accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)