

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.3757 OF 2018
ALONG WITH
CRIMINAL APPLICATION NO.45 OF 2019
IN
CRIMINAL WRIT PETITION NO.3757 OF 2018

1]	Anish Ganpat Ghadi	]
	Age-31 Years, Occu-Service	]
		]
2]	Maithili Ganpat Ghadi	]
	Age-54 Years, Occu- House wife	]
		]
3]	Ganpat Narayan Ghadi	]
	Age – 66 Years, Occu -Retired.	]
		]
4]	Chaitrali Ganpat Ghadi	]
	Age – 27 Years, Occu – Retired	]
		]
	All Residing Act :	]
	5, Ameykrupa CHS Ltd.	]
	Jodhali Baug, Near Makhamali Talav	]
	Old Mumbai Agra Road,	]
	Thane 400 601	]
		]

]..... Petitioners/Applicants
](Ori. Accused Nos.1 to 4)

versus

1]	The State of Maharashtra	]
	(Through the Officer-In-Charge	]
	Mumbra Police Station,	]
	Dist. Thane	]
		]
2]	Mrs. Asmita Anish Ghadi	]
	Age – 28 years, occu : Service	]
	Residing at :	]
	C/o Shri Sonu Bhadu Ghadigaonkar	]
	Sidhivinayak Nagar, Phase No.1,	]
	Chawl No.4, Room No.8,	]
	Diva Aagasan Road, Diva (E),	]
	Dist : Thane	]

Office Address :-	].... Respondents.
M/s. Waman Hari Pethe Jewellers,	] (Respondent No.2/
Dadar Branch, Mumbai	] First Informant)

Mr. Raju M Yamgar for the Petitioners/Applicants.
Smt. A S Pai, APP for the Respondent/State.
Mr. Shyamrishi R Pathaka for Respondent No.2.
Respondent No.2 – Mrs. Asmita Anish Ghadi present.

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

Reserved on : 03rd February 2021
Pronounced on : 04th February 2021

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

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

2 It is jointly submitted by the learned counsel appearing for the Petitioners and the Respondent No.1 that the Petitioners and the Respondent No.1 have amicably settled the dispute. It is also submitted that the consent terms for divorce by mutual consent arrived at between the Petitioner No.1 and Respondent No.2 have been filed before the Family Court, Thane. It is submitted that for better future prospects, with the intervention of their mutual well wishers and family members/friends, they decided to settle the dispute amicably.

3 Respondent No.2 is present before this Court. She has been

identified by her advocate. When we interacted with her, she has stated that it is her voluntary act without coercion to enter into the settlement and file the consent terms for divorce before the Family Court, Thane. She further stated that she has no objection for quashing the impugned FIR.

4 In support of the aforesaid statements, the 2nd Respondent has filed the affidavit of consent before this Court. The said affidavit is taken on record. In paragraphs 2, 3 and 4 of her affidavit, the 2nd Respondent stated thus:-

“2 I say that, due to the intervention of our mutual well wishers, family members, friends and relatives and pursuant to various meetings/discussions held between both the parties, we have amicably reached on settlement terms pertaining to the disputes and issues pending between both the parties. I say that we have executed consent terms dated 19/12/2020 (hereinafter referred to as the “said Consent Terms”) and filed the same before Hon’ble Family Court, Thane. Hereto annexed and marked as “EXHIBIT R1” is a copy of Consent Terms dated 19/12/2020 be treated as forming an integral part of this affidavit as if the same is reproduced herein verbatim.”

3 I say that, in view of the amicable settlement of disputes between the Parties and in furtherance of the said

Consent Terms and also for the better future prospects of both the parties, I do not desire to pursue the present prosecution against the Petitioners and therefore, I have no objection for allowing the prayers of the Petitioners in the present Petition and hereby give consent for quashing Regular Criminal Case No.2836 of 2019 pending on the file of Hon'ble J.M.F.C. Thane arising out of FIR registered with Mumbra Police Station vide C R No.177 of 2018 for the offences u/s. 498(A), 504, 506 r/w 34 of the Indian Penal Code, 1860.

4 I say that I am filing the present affidavit without any pressure, force, coercion and threats and have further settled the present matrimonial dispute with the petitioners herein vide the said Consent Terms dated 19/12/2020.”

5 Since the Petitioners and the 1st Respondent have amicably settled the dispute and the said dispute arose out of matrimonial discord, and in view of the fact that the Petitioner No.1 and the 2nd Respondent have already filed consent terms dated 19/12/2020 for mutual divorce before the Family Court at Thane, no fruitful purpose will be served by continuing the further investigation in respect of FIR being C.R. No.I-177 of 2018 registered with Mumbra Police Station, Dist. Thane for the offences punishable under Sections 498(A), 504, 506 r/w 34 of the Indian Penal Code.

6 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 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 discussion in foregoing paragraphs, it is abundantly clear that the Respondent No. 2 is not going to support the allegations made in the impugned FIR and further continuation of investigation in the impugned FIR would tantamount to the abuse of the process of the Law/Court. Since the

1 2012 (10) SCC 303

Respondent No. 2 is not going to support the allegations made in the impugned FIR the chances of conviction of the Petitioners would be remote and bleak. The entire dispute arose out of matrimonial discord. In that view of the matter, the Writ Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer clause (a) which reads thus:-

- (a) This Hon'ble Court be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other appropriate Writ, order or direction under Article 226 of the Constitution of India calling for the Records & Proceedings pertaining to the Petitioners case and after going into the validity and legality thereof to quash and set aside the First Information Report being C.R. No.I-177 of 2018 registered with Mumbai Police Station, Dist – Thane u/s. 498(A), 504, 506 r/w 34 of Indian Penal Code.

8 Rule is made absolute to above extent and, the Writ Petition stands disposed of accordingly. The parties shall strictly abide by the consent terms and extend full cooperation to the Family Court, Thane for early disposal of the proceedings.

9 In so far as the Criminal Application No.45 of 2019 is concerned, the same has been filed by the Petitioners/Applicants for amendment of the present Writ Petition in terms of Schedule-A annexed to the Application. In

view of the disposal of the present Writ Petition, the Criminal Application No.45 of 2019 does not survive and the same to stand disposed of accordingly as such.

[MANISH PITALE, J]

[S. S. SHINDE , J]