

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

Amk

WRIT PETITION NO. 479 OF 2021

Amit Ankush Kadam & Ors. .. Petitioners
Vs.
State of Maharashtra & Anr. .. Respondents

Mr. C. A. Malgaonkar for the Petitioners.
Mrs. M. H. Mhatre, APP for the Respondent-State.
Ms. Ashwini Dhotre for Respondent No.2.
Respondent No.2 present in Court.

Arjun
M.
Kadam

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by Arjun M.
Kadam
Date: 2021.03.15
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CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 12th MARCH, 2021.

ORAL ORDER

1. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the parties.
2. Learned Counsel appearing for the Petitioners and 2nd Respondent submit that the parties have amicably settled the dispute. Consent terms were filed before the learned JMFC, 4th Court at Thane wherein DV proceedings were initiated by the 2nd Respondent. On the basis of said settlement, the said proceeding was withdrawn by 2nd Respondent. It is further submitted that Petitioner No.1 and 2nd Respondent filed the joint Petition for divorce with mutual consent. In the said proceedings Consent Terms are filed.
3. 2nd Respondent has filed affidavit thereby giving no objection

for quashing the FIR. In the said affidavit, details of the Consent Terms are stated. It is stated that 2nd Respondent has no objection for quashing of the proceedings.

4. 2nd Respondent is present before this Court. She stated that it is her voluntary act to enter into the settlement and give consent for quashing of proceeding pending before the learned JMFC, 4th Court, Thane.

5. Since 2nd Respondent does not wish to proceed with the proceeding pending before the JMFC, 4th Court, Thane, no fruitful purpose would be served by continuing with this Petition. In view of the stand taken by the 2nd Respondent, the chances of conviction of the Petitioners would be bleak and remote.

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 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

¹ 2012 (10) SCC 303

have resolves 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 the discussion in foregoing paragraphs in order to secure the ends of justice and prevent the abuse of the process of Court, the Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer Clause (a) which reads thus:

- a) After perusing the present petition and the annexures attached along with it, this Hon'ble Court be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction for quashing the chargesheet/proceedings in the court of learned Judicial Magistrate First Class, 4th Court, Thane for alleged offences punishable under Sections 498-A, 323, 504 read with section 34 of the Indian Penal Code viz. R.C.C. No. 1544/2020 arising out of the FIR bearing C.R. No. 154/2019 of Bhayandar Police Station for alleged offence punishable under Section 498-A

read with section 34 of Indian Penal Code, against the Petitioners in view of the compromise entered between the Petitioner No.1 and the Respondent No.2.

8. The Writ Petition is allowed. Rule made absolute on above terms.

9. The parties shall abide by the Consent Terms and co-operate with the Family Court for early disposal of the pending proceeding of divorce.

10. The parties shall attend the proceedings before the Family Court on each and every date fixed by the Family Court.

[MANISH PITALE, J.]

[S. S. SHINDE J.]