

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.425 OF 2021

1. **Rishap Indravadan Shah,**]
having address at, A-302,]
Riddhi Apartment, Jawahar]
Nagar Road No.10, Goregaon]
(West), Mumbai – 400 104.]

2. **Indravadan Maneklal Shah**]
having address at, A-302,]
Riddhi Apartment, Jawahar]
Nagar Road No.10, Goregaon]
(West), Mumbai – 400 104.]

3. **Anju Indravadan Shah**]
having address at, A-302,]
Riddhi Apartment, Jawahar]
Nagar Road No.10, Goregaon]
(West), Mumbai – 400 104.]

4. **Pari Vaibhav Bhandari,**]
having address at A-602,]
Dwarka Flora Residency Phase]
1, Shiv Sai Lane, Near Lotus]
Hospital, Pimple Saudagar,]
Pune – 411 027.] Petitioners

Versus

1. **The State of Maharashtra**]
Through the Public Prosecutor,]
High Court (A.S.), Bombay.]

2. **The Senior Inspector of Police,**]
Goregaon Police Station,]
Goregaon (West), Mumbai.]

3. **Shruti Rishap Shah**]
having address at Flat No.A-]
603, Blue Ocean II, Mahavir]
Nagar, Ekta Nagar Cross Road,]
Kandivali (West), Mumbai –]
400 067.] ... Respondents

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Mr. M.V. Holamagi for the petitioners.

Dr. F.R. Shaikh, A.P.P. for respondent No.1 -State.

Mr. Nilesh Gupta i/b Global Law Juris for respondent No.3.

Respondent No.3 is present in the court.

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

DATED : 05TH MARCH, 2021.

ORAL JUDGEMENT :- [Per S.S. Shinde, J.]

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

2. Learned counsel appearing for the petitioners and respondent No.3 jointly submit that, the parties have amicably

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settled the dispute and that the consent terms are duly filed in the Family Court at Bandra, Mumbai.

3. Respondent No.3 has filed an affidavit in this court. Paragraph Nos.2 to 5 of the said affidavit read as under:

“2. I state that the matter is amicably settled between the parties in the family court at Bandra. I state that the Petitioner No-1 is ready to give me one time settlement amount of Rs.20,00,000/- (Rupees Twenty lakhs only) as by way of settlement in the family court at Bandra as per the consent terms for divorce filed in the family court at Bandra.

3. I further state that I am not interested to lead the matter further and pendency of the matter would spoil peaceful relationship between me and Petitioners.

4. I further state that I have no objection for quashing of F.I.R. bearing No.-227 of 2018 of Goregaon Police Station due to amicable settlement between me and the Petitioner No-1.

5. I further state that I making this Affidavit to give my no objection for quashing of F.I.R. bearing No-227 of 2018 of Goregaon Police Station before this Hon’ble Court.”

4. Respondent No.3 is present before this court. She has been identified by her counsel. We have interacted with her. She has stated that it is her voluntarily act to enter into the settlement

and join the prayer made by the petitioners for quashing the FIR.

5. Since the parties have amicably settled the dispute and respondent No.3 has joined the prayer of the petitioners to quash the FIR, it is clear that respondent No.3 is not going to support the allegations made in the FIR. We are, therefore, of the opinion that continuation of the further investigation in the said FIR would be an exercise in futility and wastage of valuable time of the investigating machinery.

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

¹ (2012) 10 SCC 303

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.

7. Since the petitioners and respondent No.3 have amicably settled the dispute and respondent No.3 is not going to support the allegations made in the FIR, the chances of conviction of the petitioners are bleak and, therefore, continuation of further proceedings arising out of the said FIR would be an exercise in futility and would tantamount to abuse of process of the court.

8. In the light of discussion in foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse of the process of the court, the petition deserves to be allowed. Hence, the petition is allowed in terms of prayer clause (a) which reads as under:

“(a) This Hon’ble Court may be pleased to quash and set aside the criminal proceedings concerning F.I.R. C.R. No.227 of 2018 of the Goregaon Police Station against the Petitioners, in exercise of the its power vested under Article 227 of Constitution of India and so also its wholesome

powers vested under Section 482 of Cr.P.C. and also dispose off the Anticipatory Bail application bearing No.2225 of 2018 pending before this Hon'ble Court and pass such orders and direction as this Hon'ble Court deem fit and proper.”

9. Rule made absolute in the above terms. The writ petition is disposed of accordingly.

10. Parties shall strictly abide by the consent terms, which are filed before the Family Court at Bandra, Mumbai. The parties shall attend the proceedings before the Family Court on the dates fixed by the Family Court and extend full co-operation for early disposal of the matter pending before it.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)