

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.226 OF 2020

1. **Nitin Parshuram Pisal,** }
 Age : 31 Years, Occupation -Service }
2. **Parshuram Dagdu Pisal,** }
 Age : 65 Years, Occupation -Retired. }
3. **Nilam Parshuram Pisal,** }
 Age : 58 Years, Occupation -Household }
 All are residing at D-12, 1/4, }
 Shrimangal Darshan Society, Sector }
 No.10, Airoli, Navi Mumbai – 400 708, }
 District-Thane. }

... Applicants

Versus

1. **The State of Maharashtra** }
 (Through Nehru Nagar Police Station, }
 Mumbai }
2. **Hemlata Nitin Pisal @ Hemlata** }
Shankar Mohite }
 Age : 30 Years, Occupation-Service, }
 Residing at C/o, Shankar Mohite, Flat }
 No.1204, Parivar Society, 'B' Wing, 'C' }
 Building, Kanjurmarg (East), Mumbai – }
 400 042. }

... Respondents

...

Mr. Ajit M. Savagave for the applicants.

Mr. Sushrut Jadhwar for Respondent No.2.

Mr. J.P.Yagnik, APP for the Respondent/State.

Mrs. Hemlata Nitin Pisal @ Hemlata S. Mohite-Respondent No.2 is present in Court.

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

DATED : 21ST JANUARY, 2021.

JUDGMENT:- [Per: Manish Pitale, J.]

1. Rule. Rule is made returnable forthwith. With the consent of learned counsel appearing for the rival parties, heard finally.
2. The applicants have approached this court seeking quashing of First Information Report (“FIR”) dated 20/07/2018 registered at Nehru Nagar Police Station, Mumbai, for the alleged offences under Sections 498-A, 406, 323, 504, 506 read with Section 34 of the Indian Penal Code (“IPC”). The FIR stood registered on the basis of the complaint submitted by respondent No.2 (original complainant). Applicant No.1 is the husband of respondent No.2 while applicant No.2 is the father-in-law and applicant No.3 is the mother-in-law.
3. Subsequent to the registration of FIR, the parties have made attempts and mutually settled the dispute. Since the complaint appears to have been filed due to the matrimonial discord between the applicant No.1 and respondent No.2, attempts for settling the dispute have led to filing of the petition for divorce, by mutual consent, before the competent court under Section 13B of the Hindu Marriage Act (“the said Act”).

4. This court is informed that the first motion in the said proceedings is submitted and the second motion is awaited.

5. In this light, respondent No.2 has also filed an affidavit before this court supporting the contentions raised on behalf of the applicants that now the dispute stands resolved and that the aforesaid petition for grant of divorce, by mutual consent, is pending before the competent court. In this backdrop, respondent No.2 submits that she has no objection to the grant of prayers made in the petition.

6. Applicant No.1 and respondent No.2 are present in the court. We have interacted with respondent No.2, who confirms the fact that she has filed the affidavit in this court on her own free will and without any coercion. She reiterated that she has no objection to the criminal application being allowed subject to applicant No.1 co-operating in the proceedings instituted under Section 13B of the said Act, which is pending before the competent court.

7. The Supreme Court in the case of *Giansingh v. State of Punjab and Anr.*¹ has held that, the criminal cases having overwhelmingly and predominantly 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

¹ 2012 (10) SCC 303

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.

8. In view of the dictum laid down in the aforesaid judgment, we are of the opinion that continuance of the further proceedings pursuant to the registration of FIR would be of no consequences and, therefore, the present criminal application deserves to be allowed. Accordingly, the criminal application is allowed in terms of prayer clause (a), which reads as follows:

“A] That this Hon’ble Court be pleased to exercise the powers conferred under Section 482 of the Code of Criminal Procedure, 1973 and quash and set aside the entire Charge-sheet filed in C.R. No.264 of 2018 against the Applicants and further be pleased to quash and set aside the

entire proceedings in Regular Criminal Case No.1332/PW/2018 against the Applicants pending on the file of the Learned Metropolitan Magistrate, 34th Court, Vikhroli, Mumbai.”

9. We make it clear that we have allowed the present criminal application subject to the condition that applicant No.1 shall co-operate with respondent No.2 in the pending proceedings for grant of divorce, by mutual consent, filed under Section 13B of the said Act and that the applicant No.1 shall attend the court proceedings on each and every day of the hearings.

10. Rule is made absolute in the above terms.

11. Criminal application is disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J)