

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.638 OF 2021

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|----|-------------------------------------|---|-----------------|
| 1. | Vikram Pagare s/o. Ramesh Pagare |] | |
| 2. | Rameh Pagare s/o. Shankar Pagare |] | |
| 3. | Shweta Pagare w/o Ramesh Pagare |] | |
| | All residing at 15/101, Ayodhya Co- |] | |
| | operative Housing Society Limited, |] | |
| | Shaktinagar, Dahisar (E), Mumbai – |] | |
| | 400 068. |] | ... Petitioners |

Versus

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|----|---------------------------------------|---|-----------------|
| 1. | The State of Maharashtra |] | |
| | (Through the office of the Public |] | |
| | Prosecutor, Bombay High Court, at the |] | |
| | instance of the Kharghar Police |] | |
| | Station, Raigad.) |] | |
| 2. | Shilpa Pagare (Nee) Aruna Gaikwad |] | |
| | w/o. Vikram Pagare, |] | |
| | Residing at Vastuvihar, K.H. 1/3, |] | |
| | Room No.402, Kharghar, Navi |] | |
| | Mumbai – 410 210. |] | ... Respondents |

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Mr. J.A. Udaipuri i/b M/s. Udaipuri & Co. for the petitioners.

Ms. S.D. Shinde, A.P.P. for respondent No.1-State.

Mr. Vikram Pagare, petitioner No.1 and Ms. Shilpa Pagare (Nee) Aruna Gaikwad, respondent No.2 are present in the court.

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

DATED : 15TH FEBRUARY, 2021.

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

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. The petitioners are the husband and parents-in-law of respondent No.2. By this petition, the petitioners have prayed for quashing of Regular Criminal Case No.632 of 2018 arising out of C.R. No.26 of 2017 dated 21/01/2017 for offences under Section 498-A, 354 and 504 read with Section 34 of the Indian Penal Code, registered with Kharghar Police Station, Kharghar, pending on the file of 6th Joint Civil Judge Junior Division & Judicial Magistrate First Class Court at Panvel, Dist. Raigad.
3. We have heard learned counsel appearing for the parties. Learned counsel appearing for the petitioners and respondent No.2 jointly submit that, the petitioners and respondent No.2 have amicably settled their disputes and differences and have entered into consent terms. Respondent No.2 has also filed a consent affidavit to that effect. Learned counsel submit that in view of the settlement, the petition may be allowed.

4. We have perused copy of consent terms filed by the parties before the Family Court at Bandra and also the affidavit filed by respondent No.2 before this court. Since the said consent terms are part of the present proceedings, it is not necessary to reproduce the contents of the same. Suffice it to state that the parties have arrived at an amicable settlement and consent terms have been filed before the Family Court at Bandra.

5. In the affidavit filed before this court, respondent No.2 has stated that in view of the settlement arrived at, in terms of the consent terms, she has no objection if the Regular Criminal Case No.632 of 2018 pending on the file of 6th Joint Civil Judge, Junior Division and Judicial Magistrate, First Class Court at Panvel, is quashed and set aside. It is also stated in the said affidavit that respondent No.2 has also withdrawn Domestic Violence Case No.500178 of 2017 instituted by her before the Court of 3rd Joint Civil Judge, Junior Division and Judicial Magistrate, First Class at Panvel.

6. Respondent No.2 is present before this court. She has been identified by her counsel. We have interacted with her. She has stated that it is her voluntary act to enter into the settlement and no coercion or undue influence or threat has been practiced on her. She has further stated that it is, at her free will, that she gave

consent for quashing the FIR and further proceedings arising out of the said FIR.

7. Upon hearing learned counsel appearing for the parties and on perusal of the consent terms and also the consent affidavit filed by respondent No.2 and in view of the settlement arrived at between the parties, we are of the opinion that continuation of the further proceedings in Regular Criminal Case No.632 of 2018 arising out of C.R. No.26 of 2017 dated 21/01/2017 pending on the file of 6th Joint Civil Judge Junior Division & Judicial Magistrate First Class Court at Panvel, Dist. Raigad, will be an exercise in futility and an abuse of the process of the court.

8. 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

¹ (2012) 10 SCC 303

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.

9. Since the dispute between the petitioners and respondent No.2 is a family dispute and they have amicably settled their dispute and in view of the fact that respondent No.2 is not going to support the allegations in the FIR, the chance of conviction of the petitioners is bleak and, therefore, continuation of further proceedings in Regular Criminal Case No.632 of 2018 arising out of C.R. No.26 of 2017 dated 21/01/2017 pending on the file of 6th Joint Civil Judge Junior Division & Judicial Magistrate First Class Court at Panvel, Dist. Raigad, would be an exercise in futility and would tantamount to abuse of process of the court.

10. 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. Accordingly, rule is made absolute in terms of prayer clause (a).

11. The criminal writ petition stands disposed of in above terms.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)