

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.620 OF 2019

Mandira
Salgaonkar

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|----|--|-----|--------------------|
| 1. | Rahul Ramchandra Mane |) | |
| | Hindu, Male, Aged about 32 years, |) | |
| | residing at flat No.15, Third floor, |) | |
| | Jeevan Mangal CHS, Chikuwadi, New |) | |
| | Link Road, Opp. Deepshal Building, |) | |
| | Borivali (West), Mumbai – 400 092 |) | |
| | |) | |
| 2. | Ramchandra Pandurang Mane |) | |
| | Hindu, Male, |) | |
| | Father of Petitioner No.1, Aged about |) | |
| | 65 years, residing with Petitioner No.1 |) | |
| | at above address |) | |
| | |) | |
| 3. | Mrs.Shaila Ramchandra Mane, |) | |
| | Hindu, Female, |) | |
| | Mother of Petitioner No.1, Aged about |) | |
| | 63 years, residing with Petitioner No.1 |) | |
| | at above address |) | |
| | |) | |
| 4. | Sachin alias Suryakant Sopan Mane |) | |
| | Hindu, Male, |) | |
| | Aged about 39 years and residing with |) | |
| | Petitioner No.1 at the above address |).. | Petitioners |

Versus

- | | | | |
|----|---|-----|--------------------|
| 1. | State |) | |
| | (At the instance of Inspector of Police |) | |
| | Borivali, Police Station) |) | |
| | |) | |
| 2. | Mrs.Prajakta Rahul Mane |) | |
| | (Nee Kumari Prajakta Subhash Lokhande) |) | |
| | residing at Room No.218, Second floor, |) | |
| | New Transit Camp No.2, Opp. Thakur |) | |
| | College, Samta Nagar, Kandivali (East), |) | |
| | Mumbai – 400 068 |).. | Respondents |

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Dr.Samarth S. Karmarkar a/w Ms.Kalyani Virkar i/b Karmarkar & Associates for the Petitioners.

Ms.Gayatri Nayak a/w Mr.Sadik Pathan i/b R.P.Khobragade for Respondent No.2.

Respondent No.2 present in Court.

Mr.J.PYagnik, APP for the Respondent/State.

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

DATED : 27th JANUARY, 2021

ORAL JUDGMENT (PER MANISH PITALE, J.)

1. Rule. Rule made returnable forthwith, with the consent of the parties and heard finally.
2. By this writ petition, the petitioners have approached this Court invoking extra ordinary jurisdiction of this Court under Article 226 of the Constitution of India alongwith powers under Section 482 of the Criminal Procedure Code, to seek quashing of FIR bearing Crime No.423 of 2017 for the alleged offences punishable under Section 498-A, 409, 420, 506, 509 read with Section 34 of the Indian Penal Code.
3. Respondent No.2 is the original complainant. Petitioner No.1 is her husband. Petitioner No.2 is the father-in-law, petitioner No.3 is the mother-in-law and petitioner No.4 is a relative of petitioner No.1. The complaint, leading to registration of FIR, was due to matrimonial dispute between petitioner No.1 and respondent No.2. It appears that due to matrimonial discord, the aforesaid criminal proceedings have been initiated.

4. With passage of time, attempts were made to settle the dispute and eventually, petitioner No.1 and respondent No.2 agreed for a divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955. Accordingly, a motion for grant of divorce by mutual consent was moved before the Family Court, Bandra. As per the mutual settlement arrived at between the parties, it was agreed that respondent No.2 would co-operate and give her consent for quashing of the aforesaid FIR.

5. In pursuance of the said terms of settlement, respondent No.2 has appeared before this Court and filed an affidavit dated 27th January, 2021, wherein she is identified by her Advocate. The same is taken on record. In the said affidavit, she confirms that the dispute between the parties has been amicably settled. It is also stated that she has received the total amount of Rs.2,50,000/- agreed between the parties.

6. It is orally clarified that a Demand Draft of Rs.1,00,000/- is received today and petitioner No.1 has already given an amount of Rs.1,50,000/- to respondent No.2 thereby satisfying the obligation under the mutual settlement.

7. Respondent No.2 has categorically stated that she has sworn the affidavit by her own free will and she is agreeable to the prayers being allowed in the present writ petition.

8. The Supreme Court in the case of **Giansingh v. State of Punjab & Anr.**¹ has held that, the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the

¹ 2012 (10) SCC 303

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 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. In view of the material placed on record and the fact that the parties have arrived at mutual settlement, it is apparent that further proceedings in the criminal court pertaining to the said FIR would not lead to any conclusive findings against the petitioners. Therefore, there is no purpose in continuing such proceedings and as per the law laid down in **Giansingh** (supra), this is a fit case for granting the prayer made in the writ petition.

10. In view of the above, the writ petition is allowed in terms of prayer clause [A], which reads as follows :

“[A] That this Honourable Court be pleased to pass an order for quashing the criminal proceedings arising out of the crime no.423/2017 at the Borivali Court no.26 of the Hon. M.M. for the alleged offences arising out of C.R.No.423/2017 for the alleged offences punishable under sections 498-A, 406, 420, 509, 506, 34 of the I.P.C. against the petitioners no.1 to 4 as stated by the petitioners.”

11. The writ petition is allowed in the aforesaid terms.

12. It is made clear that the parties shall abide by their obligations as per the mutual settlement and they shall appear before the Family Court in the pending proceedings for grant of divorce by mutual consent.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)