

ISM

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

CRIMINAL WRIT PETITION NO. 1049 OF 2021

Rohit Sadashiv Shinde

....Petitioner

V/s.

The State of Maharashtra and others

.....Respondents

Mr. Sharad Suryawanshi Mr. Ranjit Hatkar i/b POL Legal Juris for the
Petitioner

Mrs. Pooja Mohit Shinde Respondent no. 2 present in person

Mr. Deepak Thakre PP for the State

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

DATE: APRIL 3, 2021.

P.C.:

1] Rule. Rule made returnable forthwith and heard with the
consent of the learned counsel for the parties.

2] 2nd Respondent is present in the court and tendered her Aadhar
Card for identification purpose, copy of same is taken on record.

3] It is submitted by the learned counsel for the Petitioner and 2nd

Respondent that parties have amicably settled the dispute. 2nd
Respondent has already filed affidavit. Paragraph nos. 1 to 3 of the
said affidavit reads as under:

“1. I say that I have filed a complaint with Kalamboli Police Station, being FIR 137 of 2019, Kalamboli Police Station, Navi Mumbai for the alleged offences punishable under Sections 498-A, 223, 504, 306 and 34 of the Indian Penal Code against the Petitioner and his mother and sisters on 20.5.2019.

2. I say that both the Petitioner and myself (Respondent No.2) have decided to settle the entire dispute between us amicably and accordingly worked out compromise/ consent terms to be submitted in the marriage Petition No. 562 of 2019 for divorce. I say that a joint application for an amendment to convert the said marriage petition into a divorce petition by mutual consent, under the provisions of section 13(B) of the Hindu Marriage Act, 1955 has been submitted before the said learned lower court. I say because of the mutual settlement between us, I have handed the custody of three daughters to the mother of the petitioner on 7.6.2020, and in support of the same, I have signed self-declaration on 6.6.2020.

3. I say that I have no objection in granting the reliefs

prayed for by the Petitioner in this writ petition to quash and set aside the FIR 137 of 2019, registered with the Kalamboli Police Station, Navi Mumbai under Sections 498-A, 223, 504, 306 and 34 of the Indian Penal Code against the Petitioner.”

4] 2nd Respondent stated that it is her voluntary act to enter into settlement and give consent for quashing the impugned F.I.R. It is stated by her that already proceedings instituted for divorce by mutual consent under Section 13(B) of Hindu Marriage Act, 1955 have been finally disposed of. Therefore, she does not wish to proceed with the impugned F.I.R.

5] Since the parties have amicably settled the dispute, no fruitful purpose would be served by continuing further investigation of F.I.R. No. 137 of 2019 registered with Kalamboli Police Station, Navi Mumbai for offence punishable under Sections 498-A, 323, 504, 306 and 34 of the Indian Penal Code.

6] The Supreme Court in the case of Giansingh v. State of Punjab

and Another¹ 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 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 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.

¹ 2012 (10) SCC 303

7] In the light of discussion in the foregoing paragraphs, in order to secure ends of justice and to prevent the abuse of process of law/Court, Petition deserves to be allowed.

8] Accordingly, the impugned F.I.R. is quashed and Writ Petition is allowed in terms of prayer clause (b) which reads as under:

“(b) That this Hon'ble Court by invoking the provisions of Article 226 of the Constitution of India and the powers vested under Section 482 of the Code of Criminal Procedure, may issue a writ, order, or direction to quash the FIR No. 137 of 2019 registered against the Petitioner at the Kalamboli Police Station, Navi Mumbai at the instance of the Respondent No.2 for the alleged offences punishable under Sections 498-A, 323, 504, 306 and 34 of the Indian Penal Code, set aside the warrant issued declaring the petitioner proclaimed offender and all investigation therein.”

9] It appears that in the prayer clause (b), Section 306 is wrongly mentioned instead of Section 506 of the Indian Penal Code. Since the impugned F.I.R. itself is quashed, said inadvertent mistake can be ignored.

10] Rule is made absolute in the above terms.

[MANISH PITALE, J.]

[S. S. SHINDE, J.]