

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

Amk

WRIT PETITION NO. 849 OF 2021

Yatendra Dharmanand Jha & Ors. .. Petitioners
Vs.
State of Maharashtra & Anr. .. Respondents

Mr. Jitendra B. Mishra for the Petitioners.
Mrs. M. H. Mhatre, APP for the Respondent-State.
Mr. Abhishek R. Mishra for Respondent No.2.

Arjun M. Kadam
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CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 12th MARCH, 2021.

ORAL ORDER

1. Learned Counsel appearing for 2nd Respondent has tendered across the bar affidavit of 2nd Respondent. The same is taken on record.
2. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the parties.
3. It is submitted by the learned Counsel appearing for the Petitioners and 2nd Respondent that the parties have amicably settled the dispute and consent terms were filed before the Family Court and the marriage has been dissolved. 2nd Respondent has failed the affidavit. Paragraph 5 of the said affidavit reads as under:

5. I say that I have no objection if the said CR No. 165 of 2018 lodged with Worli Police Station against the Petitioners be quashed and set aside by the Hon'ble Court. I am giving my free

and voluntary consent for quashing of CR No. 165 of 2018 lodged with Worli Police Station, Mumbai against the Petitioners.

4. 2nd Respondent is present before this Court. She stated that she is not interested to proceed with the FIR. She specifically stated that it is her voluntary act to enter into the settlement and given consent for quashing the FIR.

5. Since 2nd Respondent is not interested to pursue the allegations made in the FIR, further continuation of the investigation of the FIR No. 165 of 2018 registered with Worli Police Station for the offence punishable under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code would be exercised in futility and tantamount to the abuse of process of law/Court. In view of the stand taken by 2nd Respondent that she does not wish to pursue the allegations made in the FIR, the chance of the conviction of the Petitioners would be bleak and remote.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ 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,

¹ 2012 (10) SCC 303

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 resolves 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.

7. In the light of the discussion in foregoing paragraphs and in view of the amicable settlement arrived at between the parties and affidavit filed by 2nd Respondent, the Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer Clause (a) which reads thus:

(a) That this Hon'ble Court be pleased to quash the First Information Report (F.I.R.) No. 165 of 2018 lodged with Worli

Police Station under Sections 498-A, 323, 504, 506, r.w. 34 of IPC
against the Petitioners herein.

8. The Writ Petition is disposed of. Rule made absolute on above
terms.

[MANISH PITALE, J.]

[S. S. SHINDE J.]