

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.822 OF 2021

- | | | |
|--|---|-----------------------|
| 1. Vaibhav Girijashankar Mishra |] | |
| |] | |
| 2. Girijashankar Rajdev Mishra |] | |
| |] | |
| 3. Seema Girijashankar Mishra |] | |
| |] | |
| 4. Gaurav Girijashankar Mishra |] | |
| All Residing at Flat No. 201, Building |] | |
| No.11, Shakti Nagar, Dahisar (E), |] | |
| Mumbai 400 068 |] | |
| |] | |
| 5. Pooja Kamlesh Pandey |] | |
| Residing at Room No.504, Rakhi Tower, |] | |
| Tata Road, No.3, Borivali (E), Mumbai |] | .. Petitioners |

VERSUS

- | | | |
|--|---|-----------------------|
| 1. State of Maharashtra |] | |
| Through the office of Public Prosecutor |] | |
| High Court, Bombay |] | |
| |] | |
| 2. Laxmi Vaibhav Mishra nee |] | |
| Laxmi Nagendra Pandey |] | |
| Residing at A/10, Silver Strip CHS Ltd., |] | |
| Vakola Pipe Line, Santacruz (E), |] | |
| Mumbai – 400 055 |] | .. Respondents |

Mr.Jitendra B. Mishra for the Petitioners.

Mr.Abhishek R. Mishra for Respondent No.2.

Respondent No.2 present in Court.

Mr.J.PYagnik, A.P.P. for Respondent No.1 present.

PSI Santosh Chikhalkar attached to Dahisar Police Station present.

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

DATED : 01st MARCH, 2021

ORAL JUDGMENT (PER S.S.SHINDE, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. Learned counsel appearing for the petitioners and respondent No.2 submit that the parties have amicably settled the dispute. Counsel appearing for respondent No.2 has tendered across the bar, affidavit of respondent No.2. Same is taken on record.
3. Respondent No.2 is present before the Court. She has been identified by her counsel. Respondent No.2 has stated that it is her voluntary act to enter into such settlement and join the prayer of the petitioners for quashing the FIR. It is not necessary to reproduce the contents of the affidavit of respondent No.2 since it would be treated as part of the record.
4. The Hon'ble Supreme Court in the case of **Gian Singh 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, partnership or such like transactions or the offences arising out of

¹ 2012 (10) SCC 303

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.

5. Since the petitioners and respondent No.2 have amicably settled the dispute, we are inclined to allow this petition as respondent No.2 is not going to support the allegations in the impugned FIR and chances of conviction of the petitioners would be bleak and, therefore continuation of further investigation of C.R.No.368 of 2019 registered with Dahisar Police Station, Mumbai for the offences punishable under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code, would be an exercise in futility and would tantamount to abuse of process of the Court.

6. In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the Court, the petition deserves to be allowed, and the FIR is required to be quashed.

7. The writ petition is allowed. Rule is made absolute in terms of prayer clause (a), which reads as under :-

“(a) That this Hon’ble court be pleased to quash the First Information Report (F.I.R.) No.368 of 2019 lodged with Dahisar Police Station under Sections 498-A, 323, 504, 506 read with Section 34 of IPC against the Petitioners herein.”

8. The writ petition stands disposed of accordingly.

9. The parties shall strictly abide by the consent terms arrived at between the parties. Any breach of the said terms will be seriously viewed.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)