

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

CRIMINAL WRIT PETITION NO. 1010 OF 2020

1. Himanshu Sharma
Aged 38 Years.
2. Mr. Kuldeep Chand Sharma
Aged 71 Years.
3. Mrs. Kusum Kuldeep Chand Sharma
Aged 65 Years.
4. Mrs. Aditi Kuldeep Chand Sharma
Aged 33 Years.
All R/o. H-503, Building No. 11,
CHS Neelam Nagar-2 Mulund East,
Mumbai 400081.

...PETITIONERS

Versus

1. The State of Maharashtra
Through Senior Inspector
Navghar Police Station, Mulund East,
Mumbai 400081 Maharashtra.
2. Mrs. Ripti Sharma D/o Vijay Kumar
Currently residing at
L & T CHS Ltd., 19/4 Marol
Andheri East, Mumbai.

...RESPONDENTS

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Mr. Jitesh Alva i/b. Ms. Mukta Thapar for Petitioners.
Mr. Akram Kapoor for Respondent No. 2.
Mr. S.R. Shinde, APP for State.
Mrs. Ripti Sharma Respondent No. 2 Present.

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

DATE : JANUARY 14, 2021.

ORAL JUDGMENT [PER S.S. SHINDE, J.]:

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

2. This petition is filed with following substantive prayer:-

It is therefore, most humbly and respectfully prayed that this Hon'ble Court may kindly be pleased to quash the Chargesheet No. 624/PW/2016, FIR No. 38/2016, U/s. 498A, 406, 354, 504, 506, 34 I.P.C. P.S. Navghar, Mulund West, Mumbai, in the interest of justice.

3. Learned counsel appearing for the Petitioners and Respondent No. 2 jointly submits that the parties have amicably settled the dispute before the Family Court and to that effect the consent terms which are arrived at between the parties have been placed on record. It is further submitted that the parties will strictly abide by the consent terms.

4. The parties are identified by their respective advocates. Learned counsel appearing for Respondent No. 2 has tendered across the bar the affidavit on behalf of Respondent No.2, the same is taken on record. In the said affidavit in Paragraphs 3 and 4 it is stated thus:-

3. I further say that, upon intervention of the Councilors at Family Court, At Bandra, Mumbai, in M.J. Petition No. A-980/2019, the matter between myself and the Petitioners has been amicably settled vide Consent Terms dated 17/01/2020, and therefore I have no grudges or grievances against the Petitioners nor do I wish to proceed further in C.C. No. 624/PW/2016 in C.R. No. 38 of 2016 lodged with Navghar Police Station, pending on the file of Ld. Metropolitan Magistrate, Mulund Court, Mumbai.

4. In view of the settlement arrived at in the present case with the Petitioners I hereby give my consent for quashing of C.C. No. 624/PW/2016 in C.R. No. 38 of 2016 for the offences u/s. 498(A), 406, 354, 504, 506, 34 of IPC, lodged with Navghar Police Station, pending on the file of Ld. Metropolitan Magistrate, Mulund Court, Mumbai. Accordingly the present petition filed by the Petitioners may be allowed and disposed off accordingly.

5. The Respondent No. 2 is present before this Court. She stated that it is her voluntary act to enter into such settlement and give consent for quashing the FIR and impugned charge sheet.

6. It is crystal clear that the Respondent No. 2 is not going to support the allegations in the FIR and the chances of conviction of Petitioners would be remote and bleak.

7. 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, 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.

8. In the light of discussion in foregoing paragraphs, we are of the view that the petition deserves to be allowed. Accordingly, the writ petition is allowed. The Chargesheet No. 624/PW/2016 and FIR No. 38 of 2016

1 2012 (10) SCC 303

registered with Navghar Police Station, for the offences punishable under Sections 498A, 406, 354, 504, 506 and 34 of IPC is quashed.

9. Rule made absolute on above terms and writ petition stands disposed of accordingly.

10. All parties to act upon an authenticated copy of this order.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)