

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1023 OF 2020

Mr. Jivan Sahebrao Hire]
Age – 27, Occ – Farmer,]
Add : Hanuman Mandir,]
Collector Street, Malegaon,]
Nashik.]..... Petitioner.

Versus

1] The State of Maharashtra]
At the instance of]
Killa Police Station, Nasik.]
2] Ms. Megha Navneet Kadam]
Age – 21 years, Occ -]
Permanent Add : Behind PWD Office]
Malegaon, Nashik, - 423105]..... Respondents.

Mr. Shashank C Mangle for the Petitioner.
Mr. F R Shaikh, APP for the Respondent/State.
Mr. Balwant V Salunkhe for Respondent No.2.
Respondent No. 2 present in Court.

CORAM : S. S. SHINDE,
MANISH PITALE, JJ
DATE : 26th FEBRUARY 2021

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 for the following relief :-

“(a) This Hon’ble Court be pleased to quash and set aside the FIR bearing No.38/2019 of Killa Police Station, Malegaon, Nasik ;under sections 341, 354(b), 354(d), 363, 504, 506, 511 of IPC”

3 The learned counsel appearing for the Petitioner and the learned counsel appearing for Respondent No. 2 jointly submit that the parties have amicably settled the dispute.

4 The learned counsel appearing for the 2nd Respondent has tendered across the bar the affidavit of the 2nd Respondent. The same is taken on record. It is stated in the said affidavit that the dispute essentially arises out of the matrimonial disputes between the Petitioner and Respondent No.2 herein which now stand resolved and so recorded by the Consent Terms dated 20/08/2019 executed between the Petitioner and herself. It is further stated that the dispute arose between the Petitioner and herself only due to misunderstanding and lack of communication and nothing was intentional on the part of the Petitioner and herself. It is further stated that the Petitioner and 2nd Respondent have decided to reconcile their relations, and with the intervention of their family members and senior members from their locality, the dispute between the Petitioner and the 2nd Respondent has been amicably settled, and both of them have decided to withdraw the allegations against

each other. Therefore it is prayed that the Writ Petition may be allowed and CR No.38 of 2019 registered with the Killa Police Station, Malegaon for the offence punishable under Sections 341, 354(b), 354(d), 363, 504, 506, 511 of the Indian Penal Code may be quashed.

5 The 2nd Respondent is present before this Court. She is identified by her advocate. When we interacted with her, she stated that it is her voluntary act without coercion to arrive at the amicable settlement with the Petitioner. She further stated that she has no objection for quashing the impugned FIR.

6 Since the Petitioner and the 2nd Respondent have amicably settled the dispute and the 2nd Respondent does not wish to pursue the allegations made in the FIR, no fruitful purpose will be served by continuing the further investigation in FIR bearing No.38 of 2019 registered with Killa Police Station, Malegaon, Nashik for the offences punishable under Sections 341, 354(b), 354(d), 363, 504, 506, 511 of the Indian Penal Code.

7 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,

¹ 2012 (10) SCC 303

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, it is abundantly clear that the Respondent No. 2 is not going to support the allegations made in the FIR and further continuation of investigation in the impugned FIR would tantamount to the abuse of the process of the Law/Court. Since the Respondent No. 2 is not going to support the allegations made in the FIR, the chances of the conviction of the Petitioner would be remote and bleak. In that view of the matter, the writ Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer clause (a) which reads thus :-

“(a) This Hon’ble Court be pleased to quash and set aside the FIR bearing No.38/2019 of Killa Police Station, Malegaon, Nasik ;under sections 341, 354(b), 354(d), 363, 504, 506, 511 of IPC”

9 The parties to abide strictly by the Consent Terms arrived at between them. Rule is made absolute to the above extent and, the Writ Petition stands disposed of accordingly.

[MANISH PITALE, J]

[S. S. SHINDE , J]