

VISHWANATH
SATYANARAYANA
SHERLA

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

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VISHWANATH
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SHERLA

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CRIMINAL APPLICATION NO.207 OF 2021

1) Shri Sonal Hariram Chourasia
age 41 years
Residing at Y-101, Roseland Residency,
Gate No.4, Pimple Saudagar, Dist.:
Pune – 4110272

2) Smt.Pooja w/o.Sonal Chourasia
age 34 years
r/at C/o. Dr.Omprakash Chourasia,
25GF, Sadikabad Colony,
Mankapur, Nagpur – 440030

3) Shri Hariram Bhadde Lal Chourasia
age 75 years
Residing at Y-101, Roseland Residency,
Gate No.4, Pimple Saudagar, Dist.:
Pune – 4110272

4) Shri Kiran Hariram Chourasia
age 63 years
Residing at Y-101, Roseland Residency,
Gate No.4, Pimple Saudagar, Dist.:
Pune – 4110272

5) Smt.Neha Hariram Chourasia
age 37 years
Residing at Y-101, Roseland Residency,
Gate No.4, Pimple Saudagar, Dist.:
Pune - 4110272

... Applicants

Versus

The State of Maharashtra

... Respondents

Mr.Jitesh Duhilani i/b Mr.Chirag Chanani for the Applicants

Mr.K.V. Saste, APP, for Respondent – State

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

DATED: SEPTEMBER 7, 2021

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

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

2. This Criminal Application is filed seeking the following substantive relief:

“(a) Quash and set aside the FIR registered by the non-applicant No.1 vide FIR No.0297/2020 dated 19.5.2020 for offences punishable under Sections 498A, 323, 504, 506 read with Section 34 IPC registered at Sangvi Police Station, Pune (ANNEXURE-A) and all the consequential investigations/actions/proceedings thereto in the peculiar facts and circumstances of the present case and in the interest of justice;”

3. The Criminal Application takes exception to filing of First Information Report No.297 of 2020 registered with Sangvi Police Station, Pimpri-Chinchwad for offences punishable under sections

498-A, 323, 504, 406 read with section 34 of the Indian Penal Code.

4. Learned Counsel appearing for the Applicants submits that the Applicant No.2 – wife and the Applicant No.1 and his relatives have settled the dispute. He further submits that this Application is jointly filed by the applicant No.1 – husband, applicant No.2 – wife and the applicant Nos.3 to 5, who are the parents and sister of the applicant No.1 – husband, with a prayer to quash the impugned First Information Report No.297 of 2020 registered with Sangvi Police Station, Pimpri-Chinchwad. It is submitted that the parties have amicably settled the dispute and to that effect, terms of settlement have been filed before the Family Court at Nagpur. A copy of the said terms of settlement is placed on record in the compilation of this Writ Petition (Exhibit C).

5. The applicant No.1 – husband and applicant No.2 – wife are present in the Court, who are identified by their advocate. Applicant No.2 has stated that it is her voluntary decision to enter into the terms of settlement and has given consent for quashing the impugned FIR. Applicant Nos.1 and 2 have jointly stated that they are staying together since March, 2021 and thereafter there is

no any untoward incident. They are happily residing together with their child. Applicant No.2 has stated that her consent for quashing the First Information Report is given with her free will without any coercion.

6. Since Applicant No.2, namely, Pooja Sonal Chourasia, has joined the prayer of the other applicants for quashing the impugned First Information Report, any further exercise will be in futility and would tantamount to abuse of process of the Court and no fruitful purpose will be served by continuing further investigation in relation to C.R. No.297 of 2020 registered with Sangvi Police Station, Pimpri-Chinchwad for the offences punishable under sections 498-A, 323, 504, 406 read with section 34 of the Indian Penal Code. In view of the stand taken by applicant No.2, the chances of conviction of the applicant Nos.1, 3 to 5 are 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

¹ 2012 (10) SCC 303

offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences 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 that view of the matter, in order to secure the ends of justice and to prevent further abuse of the process of said Court, we are inclined to allow the Application and it is accordingly, allowed in terms of prayer clause (a).

9. Rule is made absolute in the above terms. The Criminal Application stands disposed off accordingly.

10. All concerned to act on an authenticated copy of this order.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)