

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1230 OF 2020

1. Shahab Riyazul Hasan Sayed]
2. Shadab Riyazul Hasan Sayed]
3. Farah Riyazul Hasan Sayed,]
all residing at Piru Line, Pathanwadi,]
Pabbari Hotel, Musa Glasswala]
Building, 4th Floor, R. No.12,]
Sandhurst Road, Mumbai – 400 009.] ... Petitioners

Versus

1. The State of Maharashtra]
(vide Sir J.J. Marg Police Station,]
Mumbai.)]
2. Kanchan Shahab Sayed]
Chawl No.18, Room No.227, Samrat]
Ashok Nagar, Vile Parle East, Mumbai.] ... Respondents

ALONG WITH
CRIMINAL WRIT PETITION NO.1231 OF 2020

1. Shahab Riyazul Hasan Sayed]
2. Riyazul Hasan Sayed]
3. Nasreen Riyazul Sayed]
4. Farah Riyazul Hasan Sayed]
5. Parvej Alam Khaskar Hussain Mirza,]

all residing at Piru Line, Pathanwadi,]
 Pabbari Hotel, Musa Glasswala]
 Building, 4th Floor, R. No.12,]
 Sandhurst Road, Mumbai – 400 009.] ... Petitioners

Versus

1. The State of Maharashtra]
 (vide Sir J.J. Marg Police Station,]
 Mumbai.)]
2. Kanchan Shahab Sayed]
 Chawl No.18, Room No.227, Samrat]
 Ashok Nagar, Vile Parle East, Mumbai.] ... Respondents

...

Mr. Aditya Sharma i/b Ms. Sudha Dwivedi for the petitioners in both the petitions.

Mr. Deepak Thakare, Public Prosecutor with Mr. S.R. Shinde, A.P.P. for the State.

Ms. Saswati S. Deb with Mr. Pareshtar R. Parakh for respondent No.2.

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

RESERVED ON : 04TH FEBRUARY, 2021.

PRONOUNCED ON : 03RD MARCH, 2021.

JUDGMENT:- [Per: Manish Pitale, J.]

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. These two writ petitions have been filed by the petitioners (original accused) for quashing of two First Information Reports (“FIRs”) registered at the behest of respondent No.2. In Writ Petition No.1231 of 2020, C.R. No.51 of 2017 is the subject matter, pertaining to offences punishable under Sections 494, 498A, 406 read with Section 34 of the Indian Penal Code (“IPC”). In Writ Petition No.1230 of 2020, C.R. No.210 of 2017 is the subject matter, pertaining to offences punishable under Sections 354, 324, 323, 427 read with Section 34 of the IPC.
3. It is the case of the petitioners before this court that the said two FIRs stood registered against the petitioners due to the matrimonial discord between petitioner No.1 and respondent No.2, who were husband and wife, respectively.
4. As per the allegations levelled by respondent No.2, in C.R. No.51 of 2017, the aforesaid offences stood registered and it is alleged that the petitioners in Writ Petition No.1230 of 2020 pressurized respondent No.2 to withdraw the aforesaid C.R. No.51 of 2017 and, in that process, between 28/12/2017 and 29/12/2017,

there were altercations and respondent No.2 was assaulted by the petitioners. This led to registration of C.R. No.210 of 2017 against the petitioners.

5. It is placed on record before this court that after the registration of the two FIRs, efforts were made to settle the dispute amicably, as a consequence of which, consent terms were drawn and the dispute stood settled between the parties. As per the consent terms, petitioner No.1 gave a flat to respondent No.2 and petitioner No.1 and respondent No.2 agreed for divorce.

6. Respondent No.2 filed affidavits in both the writ petitions confirming the fact that the consent terms were drawn and that since the petitioners had abided by their obligations under the said consent terms, she was agreeable to the two FIRs being quashed. Respondent No.2 was also personally present in the court and she stated that the affidavits were sworn by her own free will and that she was not coerced or pressurized into swearing such affidavits and filing the same in the court.

7. Respondent No.2 categorically stated that she had no objection for quashing of the FIRs in view of the amicable settlement between the parties.

8. The Supreme Court in the case of *Gian Singh v. State of*

Punjab & Anr.¹ has held that the criminal cases having overwhelmingly and predominately 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 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.

9. In view of the fact that the dispute now stands settled between the parties, it is clear that respondent No.2 will not be supporting the allegations made in the two FIRs and that therefore, further proceedings in pursuance of the said FIRs would be of no

1 (2012) 10 SCC 303

consequences and the chance of conviction of the petitioners is bleak. Therefore, continuation of further proceedings arising out of the said FIRs would be an exercise in futility and would tantamount to abuse of process of the court. Thus, it will be in the interest of justice to allow these two writ petitions.

10. Since the charge-sheets were filed in pursuance of the said FIRs, the same also deserve to be quashed in the interest of justice. Accordingly, Writ Petition No.1230 of 2020 is allowed in terms of prayer clause (i) which reads as follows:

“i. This Hon’ble Court may be pleased to allow the above Petition and be pleased to use its inherent powers quash the FIR which is filed against the petitioners in C.R. No.210 of 2017 for the offences registered under sections 354, 324, 427, 34 of Indian Penal Code registered with Sir J.J. Marg Police Station and the chargesheet which has been filed bearing C.C. No.565/PW/2018 and kept pending before the Hon’ble Metropolitan Magistrate 56th Court, at Sewree.”

11. Similarly, Writ Petition No.1231 of 2020 is allowed in terms of prayer clause (i), which reads as follows:

“i. This Hon’ble Court may be pleased to allow the above Petition and be pleased to use its inherent powers quash the FIR which is filed against the

petitioners in C.R. No.51 of 2017 for the offences registered under sections 494, 498(A), 406 r/w 34 of Indian Penal Code registered with Sir J.J. Marg Police Station and the Chargesheet which has been filed bearing C.C. No.1384/PW/2019 and kept pending before the Hon'ble Metropolitan Magistrate 69th Court, at Sewree”.

12. Rule made absolute in the above terms.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)