

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.359 OF 2020

- 1] Gunvantrao Raghunath Patil
Age : 36 years, Occ : Unemployed,
R/o. Plot No.14, Vaibhav Laxmi Building
Galli No.3, New Laxmi Nagar,
Pimple Gurav, Sangvi, Pune

2] Smt. Shakuntala Raghunath Patil
Age : 69 years, Occ : Nil

3] Vasantrao Raghunath Patil
Age : 33 years, Occ : Service

Both R/o Nimgul, Tal. Shindkheda,
District Dhule

4] Mrs. Dhanvanti Chandrakant Shinde
Age : 39 years, Occ : Housewife

5] Chandrakant Jagatrao Shinde
Age : 46 years, Occ : School Teacher

Both R/o Chandravel Society,
Near Savarkar Statue,
Dhule

].Applicants/Accused

versus

- 1] The State of Maharashtra
(through the Sangvi Police Station,
Pune, CR No.05 of 2020)

2] Jagruti Gunvantrao Patil
R/o. c/o Shamkant Dajiba Sonawane
At & Post Hated (Br), Tal. Chopda,
District Jalgaon 425107

]. Respondents.

Ms. Smita Gaidhani for the Applicants.
Mr. K V Saste, APP for the Respondent/State.
Ms. Saili Dhuru for Respondent No.2.
Respondent No.2 present through Video Conferencing.

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

DATE : 27th JULY 2021

ORAL JUDGMENT (PER N. J. JAMADAR, J)

. Rule. Rule made returnable forthwith and, with the consent of the counsels for the parties, heard finally.

2 This Criminal Application is preferred to quash and set aside the FIR being C.R. No.05 of 2020 registered with Sangvi Police Station, Pune for the offences punishable under Sections 498-A, 323, 504, 506, 506(2) r/w Section 34 of the Indian Penal Code.

3 The marriage of the Applicant No.1 was solemnized with the Respondent No.2 in the year 2011. The Applicant Nos. 2 to 5 are the relatives of the Applicant No.1.

4 The learned counsel for the Applicants and the learned counsel for the Respondent No.2 make a joint statement that the dispute between the parties has been amicably resolved and in accordance with the terms of

settlement, the marriage between the Petitioner No.1 and the Respondent No.2 has also been dissolved by a decree of divorce. The consent terms have been executed between the parties on 20th December 2012. A copy of the said consent terms is annexed to the Criminal Application.

5 The Respondent No.,2 has also sown an affidavit. Paragraphs 4 and 6 to 9 of the affidavit read as under :-

- “4 *I say and submit that I know the applicants since 9 years and impugned F.I.R No.05/2020 was registered due to misunderstanding and miscommunication against the applicants due to lack of my knowledge itself.*

- 6 *I say and submits that, as per consent agreement dated 20/12/2019 between Respondent No.2 and Applicant No.1 regarding their dispute duly amicably settled and by that said Applicant No.1 and Respondent No.2 decided about the Divorce by mutual consent in view of Sec. 13(B) of Hindu Marriage Act.*

- 7 *In reply to the contents of para no.04 to 10 grounds raised in application I say and submit that, At this juncture due to amicable settlement, Even in view of HMP Application (Sec. 13B of Hindu Marriage Act) dispute amongst us have now been settled and said parties proceed for Divorce in terms of sec. 13B of Hindu Marriage Act. By that the said allegation withdrawn by the said Respondent No.2 or she has absolutely no any objection to the said application of the applicants.*

- 8 *I further say and submit that, since I have no complaint or any grievance as raised in the impugned F.I.R. I do not wish to pursue with the complaint filed before the Sangvi Police Station i.e. CR No.05/2020, continuing the prosecution will be an abuse of process of law and also directly hamper our future and would be stigma on the life of the applicants as well as me.*

9 *That therefore, it is most humbly submit that F.I.R. bearing no.05/2020 dated 07.01.2020 with the Sangvi Police Station may kindly be quashed and set aside to meet the end of the justice.”*

6 The Respondent No.2 – the First Informant appeared before this Court through video conferencing. She states that she has decided to settle the dispute with the Applicants on her own volition. There is no coercion or duress. The consent terms are executed voluntarily and the affidavit is sworn by her free will. She admits the contents of the affidavit.

7 In the light of the aforesaid submissions and statements, we have perused the material on record. From the perusal of the FIR, it becomes evident that the marital discord between the Applicant No.1 and the Respondent No.2 is the genesis of the alleged offences. The parties have now decided to bury the hatchet and resolve the dispute in its entirety. The Respondent No.2 – the First Informant admits that in pursuance of the settlement between the parties, the marriage has also been dissolved by decree of divorce passed in the month of January 2021. It seems that the entire dispute between the parties has been resolved.

8 In the backdrop of the aforesaid facts, continuation of the prosecution will not serve any fruitful purpose. In view of the settlement arrived at between the parties, the likelihood of the prosecution ending in a

conviction is very remote and bleak. Continuation of prosecution, in such circumstances, would amount to abuse of the process of the Court. It will also cause grave prejudice not only to the applicants but the Respondent No.2 as well.

9 A useful reference in this context can be made to the judgment of the Supreme Court in the case of **Gian Singh vs.State of Punjab and another**¹ wherein the Supreme Court has observed as under;

“61..... the criminal cases having overwhelmingly and predominatingly civil favour 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.”

10 The aforesaid pronouncement applies with equal force to the facts of the case at hand. In order to secure the ends of justice and prevent the

¹ 2012 (10) SCC 303

abuse of the process of Court we are persuaded to quash the impugned FIR being C.R. No.05 of 2020 registered with Sangvi Police Station, Pune for the offences punishable under Sections 498-A, 323, 504, 506, 506(2) r/w Section 34 of the Indian Penal Code.

11 Hence the Criminal Application stands allowed in terms of prayer clause (a) which reads as under :-

(a) This Hon'ble Court be pleased to call for entire records and proceedings in respect of CR No.05 of 2020 registered with the Sangvi Police Station, Pune and after careful perusal of the same, be pleased to quash and set aside the complaint/FIR and all the investigation made pursuant to the said FIR as against the Applicants."

Rule made absolute in aforesaid terms.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]