

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.823 OF 2019

- | | | | |
|----|--------------------------------|---|-----------------|
| 1. | Neeraj Vedprakash Saini |] | |
| 2. | Vedprakash Saini |] | |
| 3. | Saroj Vedprakash Saini |] | |
| 4. | Nilopher Sharma, |] | |
| | All residing at Flat No.602, |] | |
| | Pratamesh Building, Queens |] | |
| | Empire, Mira Road, Thane – 401 |] | |
| | 017. |] | ... Petitioners |

Versus

- | | | | |
|----|------------------------------------|---|------------------|
| 1. | The State of Maharashtra |] | |
| 2. | Kanan Neeraj Saini |] | |
| | R/at., Flat B/507, Lilac Building, |] | |
| | Jhangid Enclave, Laxmi Park, |] | |
| | Kanakia, Mira Road (East), Thane |] | |
| | – 401 017. |] | Respondents |

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Ms. Sunita S. Banis for the petitioners.

Ms. S.D. Shinde, A.P.P. for respondent-State.

Ms. Deepa Premchandani for respondent No.2.

Respondent No.2 is present in the court.

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

DATED : 15TH FEBRUARY, 2021.

ORAL JUDGMENT:- [S.S. Shinde, J.]

1. At the outset, learned counsel appearing for the petitioners, on instructions from the petitioners, seeks leave to amend the petition.
2. Leave granted. Amendment to be carried out forthwith.
3. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
4. This writ petition is filed for the following substantive relief:

“b. That this Hon’ble Court to issue a Writ of Certiorari/Mandamus and/or a Writ in the nature of Certiorari/Mandamus and/or any other appropriate writ, order and/or directing calling for the records and proceedings of the Petitioner case and after going into the legality and propriety thereof be pleased to quash and set aside FIR bearing No.T118 of 2015 registered Under Sec. 498 (a), 323, 504, 506 and 34 of IPC with Navghar Police Station, Dist. Thane Rural along with charge-sheet 2016 and Petitioner be set at liberty.”

5. Learned counsel appearing for the petitioners and respondent No.2 jointly submit that, the parties have amicably settled the dispute. Learned counsel for respondent No.2 has tendered across bar an affidavit of respondent No.2. The same is taken on record. Along with the said affidavit, a copy of the consent terms is annexed. Paragraphs 1 to 4 of the said affidavit in reply filed by respondent No.2 read as follows:

“1. That I am the Respondent No.2 in the aforesaid Criminal Writ Petition (A copy of my Aadhar Card bearing No.534722943600 is annexed hereto and marked as Exh ‘A’.)

2. I say that I am acquainted with the facts and circumstances of the said matter.

3. I say that I have arrived at an amicable settlement with the Petitioners abovementioned and filed consent terms dated 4th December, 2018 before the Ld. Judge Senior Division at Thane in the Marriage Petition No.167 of 2015. (A copy of the said consent terms is annexed hereto and marked as Exh-‘B’.)

4. That I have no objection to the quashing of FIR No.T118 of 2015, Chargesheet dated 2016 u/s. 498A, 323, 504, 506 and 34 of IPC registered in Navghar Police Station.”

6. Respondent No.2 is present before this court. She has been identified by her lawyer. We have interacted with respondent

No.2. She has stated that it is her voluntary act to enter into the settlement and give consent for quashing the FIR and the charge-sheet. She has further stated that the consent terms have been arrived at between petitioner No.1 and respondent No.2 and the same is filed in the Family Court, Thane.

7. Learned counsel appearing for petitioner No.1 and respondent No.2 state that both the parties shall attend to the proceedings before the Family Court on each and every day.

8. Upon hearing the learned counsel appearing for the parties and in view of the fact that respondent No.2 has voluntarily, without any coercion, entered into an amicable settlement and they have undertook to convert Petition No.A/167/2015 to a petition by mutual consent in the Family Court, we are of the opinion that no fruitful purpose would be served by continuing the pending proceedings arising out of FIR No.T118 of 2015 and charge-sheet.

9. 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,

¹ (2012) 10 SCC 303

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.

10. Having regard to the amicable settlement arrived at between the parties and in view of the affidavit filed by respondent No.2, we are of the opinion that the chance of conviction of the petitioners is bleak and remote and, therefore, the continuation of further proceedings arising out of the said FIR and the charge-sheet would be an exercise in futility and would tantamount to abuse of process of the court.

11. In the light of the discussions in the foregoing paragraphs

and in order to secure the ends of justice and to prevent the abuse of the process of the court, we are inclined to allow this petition. Accordingly, the petition is allowed in terms of prayer clause (b), which is reproduced at paragraph No.4 above.

12. Rule made absolute in the above terms.

13. The petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)