

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

CRIMINAL WRIT PETITION NO. 1330 OF 2020

Lalit Chopra
Age 50 years, Occ- Service,
Hindu, Residing At A-701, Pratap Society,
J.P. Road, Andheri (W),
Mumbai- 400053
Mob. No. 98701 40336
Email ID: lalitchopra@rediffmail.com

...PETITIONER

Versus

1. The State of Maharashtra & Ors.
At the instance of Varsova Police Station.
2. Usha Chopra
Aged 47 years, Occ- Service,
Residing At A-201, Gundecha Hills,
Near D Mart, Chandivali,
Andheri (East), Mumbai 400072.

AND

Having office at C/o Air India,
Chatrapati Shivaji International
Airport Sahar, Andheri (East),
Mumbai- 400 099.

...RESPONDENTS

...

Mr. Saeed Akhtar a/w. Ms. Pinny Pathak for Petitioner.
Mr. Prakash N. Wagh for Respondent No. 2.
Smt. A.S. Pai, APP for State.
Ms. Usha Chopra, Respondent No. 2 present in the Court.

...

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

DATE : JANUARY 27, 2021.

ORAL 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. Learned counsel appearing for Petitioner and Respondent No. 2 jointly submits that the parties have amicably settled the dispute and to that effect consent terms have been arrived between the parties before the Family Court. Learned counsel appearing for Respondent No. 2 has tendered across the bar, affidavit of Respondent No. 2, same is taken on record.
3. It is submitted by the learned counsel for Respondent No. 2 that it is the voluntary act of Respondent No. 2 to arrive at settlement and give consent for quashing the impugned FIR.
4. Respondent No. 2 is present before this Court. She is identified by her advocate. She stated that it is her voluntary act to enter into such settlement and give consent for quashing the FIR.
5. In view of settlement arrived between the parties, no fruitful purpose will be served by continuing the further investigation of FIR No. 186 of 2007 registered at Versova Police Station for the offences punishable under Section 498A, 323, 504, 506 (ii) read with 34 of IPC.

6. 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 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.

7. In the light discussion in foregoing paragraphs, it is abundantly clear that the Respondent No. 2 is not going to support the allegations in the FIR and further continuation of investigation/proceedings arising out of FIR

1 2012 (10) SCC 303

No. 186 of 2007 registered at Versova Police Station for the offences punishable under Section 498A, 323, 504, 506 (ii) read with 34 of IPC, would tantamount to the abuse of the process of the Court/law. Since the Respondent No. 2 is not going to support the allegations in the FIR the chances of the conviction of the petitioner would be remote and bleak. The entire dispute arose out of matrimonial discord. In that view of the matter, the petition deserves to be allowed. Accordingly, the petition is allowed in terms of prayer clause (a), which reads thus-

a) That the criminal proceedings bearing no. 68/PW/2009 pending at the file of Ld. Metropolitan Magistrates' 44th Court at Andheri arising out of FIR No. 186/2007 registered at Versova police station be quashed and set aside.

8. Rule made absolute to above extent and writ petition stands disposed of accordingly.

9. Needless to observe that the parties shall strictly abide by the consent terms and co-operate with the Family Court for early disposal of pending proceedings. The parties shall attend the proceedings unless there is compelling reason for not attending the same and leave granted by the concerned Court. The Family Court shall expedite the pending proceedings and take it to the logical end expeditiously.

10. All parties to act upon an authenticated copy of this order.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)