

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

CRIMINAL WRIT PETITION NO. 1181 OF 2021

Mr. Gunjan Anil Shah & Ors.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

...

Mr. Pranav Bodheka i/by. P.S. Chamber for Petitioners.

Mr. S.R. Shinde APP for State.

Ms. Isha Parekh Respondent No. 2 present through video conferencing- in-person.

...

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

DATE : 16th JULY, 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. This petition takes an exception to the FIR No. 257 of 2019 dated 5th November 2019 registered with Sion Police Station, Mumbai for the offences punishable under Sections 498-A, 406, 420, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

3. Learned counsel appearing for the petitioners and Respondent No. 2, who appears in-person, jointly submit that the

petitioners and Respondent No. 2 have amicably settled the dispute and to that effect consent terms have been filed before the Family Court, Bandra. The Respondent No. 2 has also filed affidavit before this Court.

4. Respondent No. 2 stated before us that it is her voluntary act to enter into the settlement and give consent for quashing the impugned FIR. The 2nd respondent further stated that as agreed between the parties Rs. 15,00,000/- (Rupees Fifteen Lakhs only) have been deposited in the Registry of Family Court, Bandra.

5. Since the parties have amicably settled the dispute and they have filed the consent terms before the Family Court, Bandra and further the 2nd respondent has filed affidavit before this Court stating therein that the petitioners and herself have amicably settled the dispute and therefore she has no objection for quashing the impugned FIR, no fruitful purpose would be served by continuing the further investigation of FIR No. 257 of 2019 dated 5th November 2019 registered with Sion Police Station, Mumbai for the offences punishable under Sections 498-A, 406, 420, 323, 504, 506 read with 34 of the Indian Penal Code, 1860.

6. The Respondent No. 2 has filed the affidavit before this Court. Paragraphs 2 to 4 of the said affidavit read as under:-

2. I say that I have amicably settled all the disputes with the Petitioner No. 1 i.e. my husband and his relatives i.e. Petitioner Nos. 2 to 7 in the above mentioned matter and that there are no issues pending between the parties in terms of the consent terms dated 16/02/2021 filed before the Hon'ble Family Court, Mumbai in Petition No. 102558 of 2019. A copy of the said consent terms has been annexed to this Writ Petition.

3. In view of the aforesaid consent terms, I withdraw the allegations made by me in my complaint and FIR and I no longer wish to prosecute the FIR and I have no objection if the FIR is quashed and the present Writ Petition is allowed.

4. I hereby give my free, willful and irrevocable consent to quash the present FIR.

7. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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

¹ 2012 (10) SCC 303

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 the light of discussion in foregoing paragraphs, in order to secure the ends of justice and prevent the abuse of the process of the law/Court, the petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads thus:-

a) This Hon'ble Court be pleased to quash the FIR No. 257 of 2019 dated 5th November 2019 registered by the Sion Police Station, Mumbai for offences punishable under Sections 498-A, 406, 420, 323, 504, 506 r/w 34 of the Indian Penal Code, 1860;

9. Rule made absolute to above extent. The writ petition stands disposed of.

10. We impress upon the concerned presiding Judicial Officer, Family Court, Bandra, to hear expeditiously the pending proceeding between the parties and take it to the logical end at the earliest.

11. Parties to the said proceedings shall extend full co-operation to the Family Court, Bandra for early disposal. The parties shall punctually attend on the dates fixed by the Family Court, Bandra.

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

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)