

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

CRIMINAL APPLICATION NO.278 OF 2021

1] Smt. Akshita w/o Rohan Patole,	)	
Aged about 29 years,	)	
Occupation: Service, R/o. C/o. Prakash D.	)	
Pawar, Quarter No. M-01, V.N.I.T. Campus,	)	
Bajaj Nagar, Nagpur, Tah. and Dist. Nagpur.	)	
	)	
2] Shri Rohan S/o Himmatrao Patole,	)	
Aged 31 years, Occupation: Private Service.	)	
	)	
3] Smt. Rajani W/o Himmantrao Patole,	)	
Aged about 54 years, Occ. Housewife.	)	
	)	
4] Shri Himmatrao S/o Jagatrao Patole,	)	
Aged about 62 years, Occ. Retired.	)	
	)	
Applicant No.2 to 4 resident of Plot no.115,	)	
Priti Housing Society, Koradi Road, Bokhara,	)	
Tah. and Dist Nagpur.	)	
	)	
5] Smt. Pooja W/o Yogesh Kale,	)	
Aged about 29 years, Occ: Housewife,	)	
resident of Plot no.10, Flat No.6, Varad	)	
Vinayak Alankar Apartment, Garkheda,	)	
Aurangabad, Tah. and Dist Aurangabad	)	Applicants

Versus

State of Maharashtra	)	
through Police Station Officer,	)	
Police Station Chatushrungi, Pune City,	)	
Tah. and Dist. Pune.	)	 Respondent.

Mr. Anish Khandekar for Applicants.
Petitioner No. 1 present through VC and interacted.
Mr. Deepak Thakre, PP a/w Mr. S.R. Shinde, APP for State.

**Coram : S.S. SHINDE AND
MANISH PITALE, JJ.**

**Judgment reserved on 4/5/2021
Judgment pronounced on 6/5/2021**

JUDGMENT: (Per Manish Pitale, J.)

1. This is an application under Section 482 of the Code of Criminal Procedure jointly filed by the original informant and the accused for quashing of Regular Criminal Case No. 3249 of 2019, pending before the J.M.F.C., Pune, at the behest of Applicant No. 1 against Applicant Nos. 2 to 5 for the offences under Sections 498-A, 323, 504 and 506 read with 34 of Indian Penal Code. The Applicants are praying for quashing of the said criminal case by consent, in view of the fact that after filing of charge-sheet before the said Court, the parties settled their dispute amicably.

2. The Applicant No. 1 is the wife of Applicant No. 2 and the Applicant Nos. 3 and 4 are the mother-in-law and father-in-law of

Applicant No.1, while Applicant No. 5 is married sister-in-law of Applicant No. 1. On account of complaint lodged by Applicant No. 1, offences were registered against Applicant Nos. 2 to 5. Upon completion of investigation, charge-sheet was also filed against Applicant Nos. 2 to 5.

3. Since the genesis of the criminal case initiated by the Applicant No. 1 was a matrimonial dispute between Applicant Nos. 1 and 2, the parties with passage of time decided to settle their dispute and to approach the Family Court at Nagpur with consent terms. Initially, the divorce petition filed before the Family Court at Nagpur was on the basis of allegations made by Applicant No. 2, but in view of settlement between the parties, the same was converted into a petition for grant of divorce by mutual consent.

4. Consent terms were filed before the Family Court at Nagpur recording the terms of settlement between the parties. The Applicant No. 2 has already deposited an amount of Rs.5,00,000/- in the said Court, which the Applicant No. 1 would be entitled to withdraw upon

disposal of the petition for divorce by mutual consent. On the basis of the settlement between the parties, the present application has been filed for quashing of the said criminal case.

5. The Applicants were represented through their Counsel, Mr. Anish Khandekar and Mr. Deepak Thakre, learned PP appeared on behalf of the Respondent-State. The Applicant No.1 (original informant) joined the hearing through Video Conferencing. She was identified by the learned counsel appearing for the Applicants and she stated that she voluntarily entered into settlement with Applicant No. 2 to 5 for quashing of criminal case, in view of settlement of dispute between the parties. The learned counsel appearing for the Applicants also invited attention of this Court to the Consent Terms placed on record before the Family Court at Nagpur. The Applicants undertake to abide by such consent terms.

6. The Hon'ble Supreme Court in the case of **Giansingh v. State of Punjab and Another**, reported in 1 2012 (10) SCC 303 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 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 guidelines engrafted in such power viz.: 1) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

7 Applying the ratio of aforesaid judgment of the Hon'ble Supreme Court to the facts of the present case, we are of the opinion

that, the present application deserves to be allowed, in view of the fact that the dispute between the parties in the present case essentially arose out of matrimonial discord between the Applicant Nos. 1 and 2. Since the dispute has been settled and the applicant Nos. 1 and 2 are in the process of obtaining decree for divorce by mutual consent, no purpose would be served if the aforesaid criminal case is permitted to continue. Therefore, we are of the opinion that the present application deserves to be allowed.

8. Accordingly, the application is allowed in terms of prayer clause (a), which reads as follows :

“i) quash the proceeding of the Regular Criminal Case No. 3249/2019 State of Maharashtra Vs. Rohan Patole & Others, pending before the learned Judicial Magistrate First Class, Court No. 9, Shivajinagar, Pune for offences under Sections 498-A, 323, 504, 506 and 34 of Indian Penal Code, in view of the facts stated above and in the interest of justice and equity;”.

9. The Applicants are directed to abide by the Consent Terms filed before the Family Court at Nagpur and to attend the proceedings before the said Court in the pending petition for grant of divorce by mutual consent.

10. The Application stands allowed in above terms.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)