

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

CRIMINAL APPLICATION NO. 312 OF 2021

Ajay s/o Shankarrao Rapatwar & Ors. ...Applicants

Versus

The State of Maharashtra & Anr. ...Respondents

...

Mr. Ajit M. Savagave for applicants.

Mr. Gajanan Shinde for Respondent No. 2.

Respondent No. 2 is present through video conferencing.

...

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

DATE : 6th AUGUST, 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. It is submitted by the learned counsel appearing for the applicants and 2nd respondent that the parties have amicably settled the dispute and decided to seek divorce by mutual consent. The proceedings are instituted before the Family Court, Nanded bearing No. E 63/2020.

3. The parties are identified by their respective advocates. The 2nd respondent has filed the affidavit and she is present before

the Court through video conferencing. In order to ascertain that whether the averments in the affidavit filed by the 2nd respondent is her voluntary act, we have interacted with her. She stated that it is her voluntary act to enter into the settlement with the applicants and institute the proceedings before the Family Court, Nanded, for divorce by mutual consent.

4. Paragraphs 2 to 4 of the affidavit of 2nd respondent read as under:-

2. That, the petitioner and respondent No. 2 have filed petition for grant of divorce by way of mutual consent before Hon'ble Family Court at Nanded bearing No.E 63/2020. The Petitioner and respondent No. 2 have made compromise with each other before Hon'ble Family Court at Nanded in the said mutual consent divorce petition & accordingly they have filed compromise pursis in the said petition.

3. That, in the said compromise it was decided that, all the cases which have been field by the petitioner and respondent No. 2 against each other shall be withdrawn by petitioner and respondent No. 2.

4. That, in view of the said compromise, the petitioner have filed the present petition/application for quashing the FIR bearing Crime No. 557/2020, U/s. 498-A, 323, 504, 34 of I.P.C. which is registered by Police Station Wakad, Pune and for which respondent No. 2 have no any

*objection if the said the FIR bearing
Crime No. 557/2020 is quashed.*

5. Since the parties have amicably settled the dispute and such settlement arose out of matrimonial discord and now the Applicant No. 1 and Respondent No. 2 have instituted the proceedings before the Family Court, Nanded, for divorce by mutual consent, no fruitful purpose will be served by continuing the further investigation of Crime No. 557/2020 registered by the Wakad Police Station, Pimpri-Chinchwad, for the offences punishable under Section 498-A, 223, 323, 504 and 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

¹ 2012 (10) SCC 303

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. Keeping in view the exposition of Hon'ble Supreme Court in the aforesaid case that in order to secure the ends of justice and prevent the abuse of the process of the Court, the cases arising out of matrimonial discord can be settled through mutual consent and in case the parties have applied for quashing the criminal proceedings, the High Court can invoke its jurisdiction under Section 482 of Cr.P.C. and quash the said proceedings, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause (C), which reads as under:-

C) To quash and set aside the F.I.R. bearing Crime NO. 557/2020 registered for offence punishable u/s 498-A, 223, 504, 34, 323 of I.P.C. at Wakad Police Station, Pimpri-Chinchwad dated 13.08.2020 and for that purpose issue necessary order.

8. Rule is made absolute to above extent. The application stands disposed of.

9. Parties to act upon an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)