

1]	Tejas Pratap Deshmane Aged : 33 years Occupation : Service	]
2]	Pratap D. Deshmane Aged : 71 years Occupation : Retired	]
3]	Smita Pratap Deshmane Aged about 62 years, Occupation Housewife	]
4]	Rupali Vijay Balekundri Age : 42 years, Occupation : Housewife Address : 3122/A, Khade Bazar Belgaum, Belgaum, Karnataka 590001	]
5]	Sonali Mangesh Varavdekar (Alias : Sonali Pratap Deshmane Aged 40 years Occupation : Service Address : 701, H15, Press Enclave, Pratiksha Nagar, Koliwada, Sion East, Mumbai – 400022 Petitioners 1, 2 & 3 permanently residing at 203 F Wing, Pioneer Heritage Residency-2 S. V. Road, Behind Sane Guruji Vidyamandir, Santacruz West, Mumbai – 400054	]
		]..... Petitioners.

1] The State of Maharashtra]

- 2] The Inspector of Police]
Ambad Police Station, Nashik]
]
3] Name : Nayan Tejas Deshmane]
Aged 32 years]
Occupation : Service]
Currently Residing at :]
Plot No.44/45, Radhey Residency,]
Row House No.1, Ashwin Nagar,]
Pathardi Phata, CIDCO,]
Nashik, Maharashtra – 400009]..... Respondents

Mr. Akshay M. Gosavi a/w Mr. Sagar Naik for the Petitioners.
Mr. Kedar Dandane for Respondent No.3.
Mr. V B Konde-Deshmukh, APP for the Respondent Nos.1 and 2/State.
Respondent No.3 present through video conferencing.

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

DATE : 15th JULY 2021

ORAL JUDGMENT : (PER S S SHINDE, J.)

1 Rule. Rule made returnable forthwith and heard with the consent of the learned counsel appearing for the parties.

2 The Petitioners, by this Writ Petition under Article 226 of the Constitution of India and Section 482 of the Code of Criminal Procedure, 1973, seek relief of quashing proceedings in CR No.627 of 2019 and the Charge-sheet filed at Ambad Police Station, Nashik for the offences punishable under Sections 498A, 406, 323, 324, 504, 506 r/w Section 34 of the Indian penal Code.

3 The learned counsel appearing for the Petitioners and the learned counsel appearing for Respondent No.3 jointly submit that the parties have amicably settled the dispute and, a Petition for Divorce by mutual consent has been filed in the Family Court at Nashik. The copy of the said Divorce Petition is placed on record at Exhibit "C" on page 33

4 The Petitioners and the 3rd Respondent are present before this Court through video conferencing. The learned counsel appearing for the Petitioners identified the Petitioners. The learned counsel appearing for the 3rd Respondent identified the 3rd Respondent. When we interacted with her, she stated that it is her voluntary act to enter into amicable settlement and file the Petition for Divorce by mutual consent before the Family Court at Nashik. She further stated that she has received an amount of Rs.10,00,000/- out of agreed amount of Rs.15,50,000/-, and the remaining amount of Rs.5,50,000/- will be received by her before signing the papers before the Family Court at Nashik. She further stated that amount of Rs.10,00,000/- has been credited in her bank account. She further stated that she has no objection for quashing the impugned FIR and the charge-sheet.

5 In support of her aforesaid statements, the 3rd Respondent has filed her affidavit before this Court. In paragraphs 2 to 4, the 3rd Respondent has stated thus :-

“2 *I say that the Petitioner No.1 is my husband while the Petitioners No.2 and 3 are my father-in-law and mother-in-law respectively and Petitioners No.4 & 5 are my sisters-in-law.*

3 *I say that the dispute between us has been settled amicably on the terms and conditions specifically mentioned in the Mutual Consent Divorce Petition dated 17/12/2020 vide Application No.F-497/2020 filed at Nashik that we have entered into. I confirm and admit the contents of the petition and the said consent terms. Needless to state, therefore, I have no desire to pursue C.R. No.627/2019 and Charge-sheet No.1236/2020 which is filed against the Petitioners.*

4 *Hence, I say that I do not have any objection if the C.R. 627/2019 and Charge-sheet No.1236/2020 lodged for alleged offences punishable under the provisions of Section 498A, 406, 323, 324, 504, 506 r/w s.34 of IP Code against the Petitioners is quashed and set aside by this Hon’ble Court which is pending and under investigation.*

I say that whatever has been stated in the foregoing paras is true and correct to the best of my knowledge.

I also say that this Affidavit is not being filed under any coercion or duress and is being done willingly in view of the Consent Terms dated 17.12.2020 which has been arrived at, between the Petitioners and me.”

6 Since the parties have amicably settled the dispute and the 3rd Respondent has stated before this Court that it is her voluntary act to enter into the settlement without any coercion, no fruitful purpose will be served by continuing the further investigation of impugned FIR i.e. C R No.627 of 2019 lodged by the 3rd Respondent for the offences punishable under Sections 498A,

406, 323, 324, 504, 506 r/w Section 34 of the Indian Penal Code and the Charge-sheet No.1236 of 2020 registered with Ambad Police Station, Nashik by the 3rd Respondent against the Petitioners.

7 The Supreme Court in the case of **Giansingh v. State of Punjab and Another**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, 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.

1 2012 (10) SCC 303

8 In the light of discussion in foregoing paragraphs, it is abundantly clear that the 3rd Respondent is not going to support the allegations made in the impugned FIR and further continuation of investigation in the impugned FIR lodged by the 3rd Respondent against the Petitioners would tantamount to the abuse of the process of the Court. Since the Respondent No.3 is not going to support the allegations in the FIR the chances of conviction of the Petitioners would be remote and bleak. In order to prevent the abuse of the process of the Court and to secure the ends of justice, it would be appropriate to quash and set aside the impugned FIR and the Charge-sheet. In that view of the matter, the Writ Petition deserves to be allowed and, the same is allowed in terms of prayer clause (d) which reads thus :-

“(d) That after going through the records and proceedings in C.R. No.627/2019 and Charge-sheet No.1236/2020 registered with Ambad Police Station, Nashik, this Honorable Court be please to issue a writ of Mandamus or any other appropriate writ, order or direction quashing the said Fir Information Report and the Charge-sheet filed at Ambad Police Station, Nashik u/s 498 A, 406, 323, 324, 504, 506 r/w s. 34 of IP Code,1860, as regards the Petitioners in view of the compromise entered between the parties.”

Rule made absolute to the above extent. The Writ Petition stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]