

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

CRIMINAL WRIT PETITION NO. 1427 OF 2021

1. Akshit Vimal Sharma
Age: about 34 years, Occ- Service.
2. Vimal Sharma
Age about 60 years, Occ- Nil,
Both Petitioners residing at
H.No. WZ-181, Street No-2,
Lajwanti Gardens, New Delhi-110046. **...PETITIONERS**

Versus

1. The State of Maharashtra
Through Antop Hill Police Station.
2. Nisha Sharma
Age about 32 years, Occ- Service,
Residing at Flat No. 602, 6th Floor
Mohan Suburbia Phase-I
Oxford Building, Q-Wing
Ambernath (West) 421501. **...RESPONDENTS**

...

Mr. Mayank Sharma a/w. Mr. Sumedh Sonawane Petitioners.
Ms. Chaitali P. Chaudhari for Respondent No. 2.
Petitioner Nos. 1 and 2 are present in the Court.
Respondent No. 2 is present in the Court.

...

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

DATE : 18th MARCH, 2021.

ORAL JUDGMENT [PER MANISH PITALE, J]:

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

2. By this petition, the petitioners have approached this Court seeking quashing of FIR No. 18 of 2020 registered against them for the offences punishable under Sections 498A, 504, 506, 354, 34 of IPC and Section 4 of Dowry Prohibition Act. It is contended by the petitioners that the said FIR is registered on the behest of Respondent No. 2 (original complainant) out of a matrimonial discord between the Petitioner No. 1 and Respondent No. 2.

3. It is further submitted that the dispute between the parties has been now settled and that consent terms to that effect have been already placed on record before the JMFC, Ulhasnagar. It is further submitted that the Petitioners have already abided by the conditions specified in the said consent terms and other transactions have also been completed. It is further submitted that now the petition for divorce by mutual consent is pending before the competent Court.

4. Respondent No. 2 has appeared through counsel before this Court and she is also personally present. Affidavit of Respondent No. 2 has been tendered across the bar, which is taken on record. Paragraphs 2 to 10 of the said affidavit read as under:-

2. The Respondent No. 2 states and submits that she has gone through the contents of the above captioned petition filed by the Petitioners for relief of quashing of FIR No. 18/2020 lodged at Antop Hill Police Station at her instance out of erstwhile matrimonial dispute.

3. *The Respondent No. 2 states and submits that the parties have amicably settled the dispute and have also recorded the settlement proposal before the Ld. JMFC, Ulhasnagar. The copy is also annexed to the Petitioner.*

4. *The Respondent No. 2 states and submits that the Petitioner No. 1 & the Respondent have amicably resolved all the mutual differences and also decided to withdraw all the proceedings against each other. Further, the Respondent No. 2 states that no coercion, threat or undue influence in any manner is exercised upon her to settle the matter and the same is out of her own free will.*

5. *The Respondent No. 2 states that she agrees and submits that she withdraws all the allegations and averments against the Petitioners.*

6. *The Respondent No. 2 states that the contested divorce petition filed by her is also withdrawn. And the parties have filed a mutual consent petition before the Ld. CJSD, Kalyan.*

7. *The Respondent No. 2 states that all the exchange of articles/items, transfer of money and transfer of property has been concluded between the parties. And there remains no other claim against each other in this regard.*

8. *The Respondent No. 2 states that the dispute was matrimonial in nature and is entirely settled between the parties. And therefore, the continuation of the proceedings would be a hardship for her.*

9. *The Respondent No. 2 states that by way of this affidavit she submits her No-objection to the quashing of the abovementioned FIR bearing C.R. 18/2020 of Antop Hill Police Station, Mumbai. However, the parties be bound by the terms of Consent Terms already filed by the parties before Ld. JMFC, Ulhasnagar.*

10. *The Respondent No. 2 submits and prays that this Hon'ble be pleased to quash the aforesaid FIR be in accordance with the Consent Terms in the interests of justice.*

5. Respondent No. 2 is personally present in the Court and we have interacted with her. She has confirmed the fact that she has paid payments in terms of consent terms and also other transactions agreed between the parties have been completed. She submits that she is voluntarily consenting to quashing of aforesaid FIR registered against the Petitioners.

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

1 2012 (10) SCC 303

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 view of the position of law laid down by the Hon'ble Supreme Court in the above cited judgment and considering the fact that Respondent No. 2 has come forward giving consent to quashing FIR, no fruitful purpose would be served by continuing the further investigation of the aforesaid FIR. Further continuation of investigation/proceeding of aforesaid FIR would tantamount to the abuse of the process of the Court. There is hardly any possibility of the proceedings undertaken in pursuance of the said FIR, culminating into the adverse order against the Petitioners.

8. In view of above, we are of the opinion that the present petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads as under:-

a. This Hon'ble Court be pleased to quash FIR bearing CR No. 18 of 2020 registered with Antop Hill Police Station under Section 498A, 504, 506, 354, 34 of the IPC r/w Sec 4 of Dowry Prohibition Act against the Petitioners herein and all proceedings arising out the said FIR, on such terms and conditions as this Hon'ble Court may deem fit and proper;

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

10. The parties are directed to abide by their mutual obligations as per the consent terms and also attend dates before the competent court, where the proceeding for divorce by mutual consent is pending. Any breach by the parties shall be strictly viewed by this Court.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)