

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

CRIMINAL WRIT PETITION NO.1707 OF 2021

Ajay Mathuraprasad Sharma & others ... Petitioners

Vs.

State of Maharashtra & another ... Respondents

Mr.A.L. Tripathi for the Petitioners

Dr.F.R. Shaikh, APP, for Respondent – State

Mr.Virendra Tripathi for Respondent No.2

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

DATED: APRIL 27, 2021

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

1. Rule. Rule made returnable forthwith, with the consent of the parties and heard finally.

2. This petition is filed for the following substantive prayer:

“a) this Hon’ble Court by its appropriate writ, order and direction be pleased to quash and set aside Chargesheet dated 24.1.2017 in F.I.R. No.313 of 2015 dated 18.8.2015 registered with Mahim Police Station, Mumbai in respect of offence u/s. 498 (A), 506, r/w. Section 34 of the Indian Penal Code along with Section 3 and 4 of Dowry Prohibition Act,

and Case No.210/PW/2017 before the Addl. Chief Metropolitan Magistrate's 9th Court at Bandra, Mumbai be quashed and set aside."

3. Learned Counsel appearing for the petitioners and Respondent No.2 jointly submit that the parties have amicably settled the dispute and to that effect, consent affidavit has been filed by Respondent No.2 alongwith this petition.

4. In the affidavit filed by Respondent No.2, it is stated by Respondent No.2 in paragraphs 2 to 5 as under:

"2. I say that on my refusal to go and live with the petitioner No.1 in USA there arose some differences between me and the petitioner No.1 with the result, under distress and indifferent state of mind, I lodged various complaints and litigations against the petitioners in the circumstances at the relevant time and on the advice of my accomplice and friends. The Petitioner Nos.2 and 3 are Senior Citizens, and aged about 83 years and 82 years respectively.

3. I say that during the spur of moment and on account of being under stress and indifferent state of mind I had lodged complaint with Mahim Police Station which was recorded F.I.R. No.313 of 2015 u/s. 498(A), 506, r/w. Section 34 of the Indian Penal Code along with Section 3 and 4 of Dowry Prohibition Act, and same came to be numbered as Case No.210/PW/2017 before the Addl. Chief Metropolitan Magistrate's 9th Court at Bandra, Mumbai.

4. I say that during the intervening period, the Petitioner No.1 had filed a petition for annulment of marriage in U.S. Court and said Court passed a decree for annulment of Marriage between myself and the Petitioner No.1.

5. I say that I am permanently residing in Gwalior and I am successful and very busy in my professional life operating a Health & Wellness center in Gwalior. I have decided to live peaceful in the rest of my life and therefore, I and Petitioner No.1 have settled all our disputes amicably and accordingly I have No Objection in allowing petition of the Petitioner for quashing of F.I.R. No.313 of 2015 u/s. 498(A), 506 r/w. Section 34 of the Indian Penal Code along with Section 3 and 4 of Dowry Prohibition Act, and Case No.210/PW/2017 pending before the Addl. Chief Metropolitan Magistrates 9th Court at Bandra, Mumbai.”

5. We have interacted with Respondent No.2 through video conferencing and she has stated that it is her voluntary act to enter into the compromise / settlement. She has further stated that her act to enter into such settlement and file the consent affidavit praying therein for quashing the impugned FIR, is with her free will and without any coercion. She has thus stated that she has no objection for quashing of the impugned First Information Report.

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 offences arising out of

1 2012 (10) SCC 303

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 has also held that 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. In view of the above, Respondent No.2 is not going to support the allegations in the impugned FIR and continuation of further proceedings arising out of the said FIR, would be an exercise in futility and would tantamount to abuse of process of the Court/law.

8. In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the Court/law, the petition deserves to be allowed.

9. Rule is made absolute in terms of prayer clause (a). The Petition stands disposed off accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)