

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.354 OF 2021

- | | | |
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| 1] | Shashank Mahajan |] |
| | S/o Kishore Mahajan |] |
| | Aged 32 years, Indian Adult Inhabitant |] |
| | Occupation – Service |] |
| | |] |
| 2] | Mr. Kishore Sham Mahajan |] |
| | Aged 56 years, Indian Adult Inhabitants |] |
| | Occupation – Business |] |
| | |] |
| 3] | Smt. Pushpa Mahajan |] |
| | W/o Kishore Mahajan |] |
| | Aged 51 years, Indian Adult Inhabitant |] |
| | Occ : Housewife |] |
| | |] |
| 4] | Ms. Shubhangi Mahajan |] |
| | D/o Kishore Mahajan |] |
| | Aged 25 years |] |
| | Occ : Student |] |
| | |] |
| | All the Applicants are residing at |] |
| | House No.1400-J Scheme No.114, |] |
| | Part 1 Behind Rajiv Awas Vihar |] |
| | Near Marthoma School, Vijay Nagar |] |
| | Indore – 452001 (M.P.) |] |
| | |] |

Versus

- | | | |
|----|--|---|
| 1] | State of Maharashtra
Through Satpur Police Station
Nashik City, Through Public
Prosecutor, High Court,
Mumbai. |] |
| 2] | Mitali D/o Mr. Ashok Tiwaskar
(Ex Wife of Shashank Mahajan)
Age : 34 years, Indian Adult Inhabitant
Occ : Housewife |] |

Residing Plot No.12 A,]
Near Ujjawal School, Mire Layout]
Kabir Nagar, Nagpur, 440009]..... Respondents.

Ms. Kokila Kalra for the Applicants.

Mrs. S D Shinde, APP for the Respondent/State.

Respondent No.2 - Ms. Mitali Ashok Tiwaskar in person present through VC.

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

DATE : 01st JULY 2021

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

1 Rule. Rule made returnable forthwith and heard with the consent of the learned counsel appearing for the Applicants and the Respondent No.2 who appears in person.

2 The learned counsel appearing for the Applicants and the 2nd Respondent, who appears in person through Video Conferencing, submit that the parties have amicably settled the dispute and the consent terms were filed before the Family Court-3, Nagpur and the said Court had allowed the application for divorce by mutual consent, and accordingly marriage between Applicant No.1 and the 2nd Respondent came to be dissolved.

3 The 2nd Respondent invites our attention to the affidavit filed by her and submits that it is her voluntary act to enter into the amicable settlement and file the consent terms before the Family Court, Nagpur. She

further submits that she does not wish to prosecute the Applicants herein, who are the accused in FIR No.49 of 2020 registered with the Satpur Police Station, Nashik City for the offences punishable under Sections 498A, 506, r/w 34 of the Indian Penal Code and Sections 3 and 4 of Dowry Prohibition Act, 1961. She further submits that she has given her consent for quashing the impugned FIR.

4 The 2nd Respondent has filed her affidavit stating therein that after much persuasion and intervention of relatives the dispute was resolved amicably and the parties have arrived at a settlement. The Respondent No.2 in Paragraph Nos.2 to 4 of her affidavit stated thus :-

“2 I say that dispute arose between the Applicant No.1 and myself U/s 498A & 506, R/W Sec. 34 I P C & 3, 4 Dowry Prohibition Act, 1961 registered against Applicant No.1 and other Applicants mentioned in the Application registered with Satpur Police Station, Nashik (Maharashtra) against the Applicants for alleged offences under section 498A & 506 R/w 34 of Indian Penal Code and Section 3 & 4 Dowry Prohibition Act, 1961.

3 I say that during the pendency of the abovementioned F.I.R. registered against the applicants, after much persuasion and intervention of relatives the dispute was resolved amicably and arrived to a settlement. I say that I have received all my Stridhan & Ornaments etc. and also received Rs.15,50,000/- (Rupees Fifteen lakhs Fifty Thousand only) from the applicant No.1 through Demand Draft & Cash, to me on 23/12/2020 towards the full and final settlement amount for permanent alimony for myself and accordingly acknowledged by me. Now nothing remains due nor any dispute pending

in this regard. Accordingly a Petition for Mutual Consent Divorce has been filed in the pending Petitions before the Family Court, Nagpur (Mah.)

- 4 *I say that in view of the amicable settlement I say that I do not have any objection if the F.I.R. No.49/2020 is quashed against the Applicants.*

5 Since the parties have amicably settled the dispute, no fruitful purpose will be served by continuing the further proceedings/investigation in the impugned FIR bearing No.49 of 2020 registered with the Satpur Police Station, Nashik City for the offences punishable under Sections 498A, 506, r/w 34 of the Indian Penal Code and Sections 3 and 4 of Dowry Prohibition Act, 1961.

6 A useful reference can be made to the judgment of the Supreme Court in the case of **Gian Singh Versus State of Punjab and Another**¹, wherein the Supreme Court observed that,

“61But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on 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 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great

1 2012 (10) SCC 303

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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

7 In view of the settlement of the matter, the possibility of the prosecution resulting into conviction is extremely remote and bleak. In this view of the matter, in order to prevent the abuse of the process of Law/Court and to secure the ends of justice, in our view, it would be appropriate to allow the prayer of the Applicants for quashing and setting aside the impugned FIR. The Criminal Application is accordingly allowed in terms of prayer clause N(i) which reads thus :-

“N(i) That this Hon’ble Court is pleased to quash the FIR bearing No.49 of 2020 instituted by Satpur Police Station, Nashik City against the Applicants.”

8 Rule made absolute in above terms. The Criminal Application is disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]