

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

CRIMINAL WRIT PETITION NO. 2481 OF 2021

Martin Ashok Joshua & Ors.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

...

Mr. Aalekh Wagh i/by. Rohini Wagh, Priyanka Tiwari for Petitioners.

Ms. Bhagwati D. Karnik for Respondent No 2.

Mr. V.B. Konde-Deshmukh, APP for State.

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. Learned counsel for the petitioners and 2nd respondent jointly submit that the parties have amicably settled the dispute. The Respondent No. 2 has filed the affidavit along with deed of settlement/agreement. The said deed of settlement is signed by the Petitioner No. 1 and Respondent No. 2.

3. The parties are identified by their respective advocates. The 2nd respondent is present before this Court through video conferencing. We have interacted with her. She stated that it is her voluntary act to enter into such settlement and give consent for quashing the impugned FIR. She has also stated about deed of settlement and the fact that the proceedings are pending before the District Court, Thane.

4. Paragraphs 2 to 5 of the affidavit filed by the 2nd respondent read as under:-

2. I say that, after that we approached each other to settle the marital issue between us amicably and peacefully. At that time, I had been put to knowledge by the Petitioner no 1 about this Criminal Writ Petition filed by him for quashing of FIR filed by me. Further, we filed a mutual consent divorce on 16/6/2021 as per section 10-A of The Indian Marriage Act before District Court Thane at Thane bearing MP no 56/2021 also myself and Petitioner no 1 have entered a Deed of settlement/Agreement signed by us in presence of our respective advocates as on 16/6/2021. Hereto annexed and marked as Exh.A.

3. I am filing the copy of the Divorce Petition MP no 56/2021 filed under section 10-A of The Indian Divorce Act for mutual

consent divorce filed before District Judge, Civil, Thane. Hereto annexed and marked as Exh B Other than the FIR complaint and MP 56/2021 pending before the District Judge Civil, Thane no other case of complaint and or petition is pending between us before any court of law.

4. I say that I have withdrawn all allegations as imposed against the Petitioners in my FIR.

5. I have no objection and express my free consent to this Hon'ble Court and that this Hon'ble Court may quash this FIR no 127/2020 if this Hon'ble Court deems fit and proper.

5. Since the 2nd respondent has no objection for quashing the impugned FIR in view of settlement arrived between the parties, no fruitful purpose will be served by continuing the further investigation of FIR No. 127/2020 registered with Vashi Police Station, for the offences punishable under Section 377, 498(A), 406, 223, 504, 506, 34 of Indian Penal Code.

6. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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

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 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. In the light of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of the Court, the petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (b), which reads as under:-

(b) That this Hon'ble Court may pass appropriate order and quash the FIR 127/2020 filed by Vashi Police Station 377, 498(A), 406, 223, 504, 506, 34 Indian Penal Code.

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

9. Parties are directed to extend full co-operation for early disposal of pending proceedings before the District Court at Thane.

10. Parties shall strictly abide by the terms of settlement which are mentioned in the deed of settlement/agreement.

11. The District Court, Thane shall expedite the pending proceedings and dispose of the same, preferably on the next date.

12. Liberty to the Petitioner No. 1 to apply for police clearance certificate on the basis of order passed today. The concerned police officer to consider the same and take the appropriate decision.

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

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)