

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.401 OF 2021**

1] Mr. Vishal Arvind Kachalia	)	
Age 41 years, Adult, Indian Inhabitant,	)	
	)	
2] Mr. Arvind Amichand Kachalia	)	
Age: 74 years, Adult, Indian Inhabitant,	)	
	)	
3] Mrs. Meena Arvind Kachalia	)	
Age: 68 years, Adult, Indian Inhabitant,	)	
	)	
4] Mrs Meghna Nilesh Parekh	)	
Age: 42 years, Adult, Indian Inhabitant,	)	
	)	
All residing at 95/102, Shanti Park,	)	
Poonam Complex Co-op. Hsg. Soc. Ltd.,	)	
Mira Road (East), Thane – 401 107	)	 Applicants.

V/s

1] The State of Maharashtra	)	
(At the instance of Kandivali Police Station)	)	
	)	
2] Mrs. Binita @ Vinita Vishal Kachalia	)	
Age : 35 years, Adult, Indian Inhabitant,	)	
Occ: Housewife, residing at B/704,	)	
Veena Classic, Modi Park Iraniwadi No.3,	)	
Kandivali (West), Mumbai – 400 067.	)	Respondents.

Mr. Durgesh Jaiswal a/w Mr. Harshal Damania for the Applicants.
Mr. S.R. Shinde, APP for the State.
Respondent No.2 present through video conferencing and interacted.

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

**Judgment reserved on 4/5/2021
Judgment pronounced on 6/5/2021**

JUDGMENT: (Per Manish Pitale, J.)

1] Applicants have approached this Court under Section 482 of the Criminal Procedure Code seeking quashing of an FIR registered at the behest of Respondent No.2 (original informant) for an offence under Section 498A read with Section 34 of the Indian Penal Code. The present application is filed for quashing of the FIR with the consent of Respondent No.2. In fact, an affidavit of Respondent No.2 is filed alongwith the present application wherein she has stated that the dispute between the parties has been amicably settled and that she does not wish to pursue criminal proceedings any longer.

2] The learned Counsel appearing for the Applicants has invited our attention to the affidavit dated 16/4/2021 of Respondent No.2 wherein she has shown her willingness to give consent for quashing of the said FIR registered against the Applicants. Applicant No.1 is husband of Respondent No.2, whereas Applicant Nos. 2, 3 and 4 are

her father-in-law, mother-in-law and sister-in-law respectively. The learned Counsel for the Applicants has also invited our attention to the consent terms dated 11/3/2021 filed before the Sessions Court at Dindoshi on the basis of which anticipatory bail was granted to the Applicants by the said Court. The Applicants have submitted that they shall abide by the aforesaid consent terms.

3] Respondent No.2 joined hearing of this Application through video conferencing on 4/5/2021 and she stated that she had voluntarily entered into settlement with the Applicants and that she had filed the aforesaid affidavit before this Court on her own, without any coercion while giving consent for quashing of the aforesaid FIR. She also submitted that she would abide by the aforementioned consent terms.

4] We have perused the consent terms dated 11/3/2021 consisting of 17 clauses, which include the undertaking given by Applicant No.1 that he shall bear educational expenses of the only son born out of the wedlock. The amount towards such expenses has also been stated in the said consent terms. Since a specific undertaking is given before

this Court by the Applicants and Respondent No.2 who has appeared before this Court during the hearing, we expect the said parties to strictly abide by the said consent terms.

5] The Hon'ble Supreme Court in the case of *Giansingh v. State of Punjab and Another*, reported in **(2012) 10 SCC 303** has held that, the criminal cases having overwhelmingly and pre-dominantly 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.

6] Applying the ratio of the aforesaid judgment to the facts of the present case, we are of the opinion that no purpose would be served if the criminal proceedings are allowed to continue any further. Hence, we are inclined to allow the present Application.

7] Accordingly, the Application is allowed in terms of prayer clause (B) which reads as under:-

“(B) This Hon’ble Court may kindly quash Criminal Complaint being C.R. No.115 of 2021 dated 25th February 2021 for offences punishable u/s. 498(A) r/w 34 of the Indian Penal Code 1860 with Kandivali Police Station filed against the present Applicants at the instance of the Respondent No.2.”

8] The applicants and respondent no.2 shall strictly abide by the aforesaid consent terms. Accordingly, the present Application stands disposed of.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)