

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

CRIMINAL WRIT PETITION NO. 584 OF 2021

Radheshyam Sitaram Yadav & Ors. ...Petitioners

Versus

The State of Maharashtra & Ors. ...Respondents

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Mr. Narendra Dubey for Petitioners.

Ms. Ridhi K. Thakkar for Respondent No. 3.

Respondent No. 3 is present through video conferencing.

Mrs. M.H. Mhatre, APP for State.

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

DATE : 8th JULY, 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 appearing for the petitioners and Respondent No. 3 submits that the parties have amicably settled the dispute and to that effect the Respondent No. 3 has filed her affidavit.

3. Respondent No. 3 is present before this Court. We have interacted with her. She stated that it is her voluntary act to enter into the settlement and give consent for quashing the FIR and chargesheet impugned in the petition. The Respondent No. 3 is identified by her advocate Ms. Ridhi Thakkar appearing for her. Paragraph 5 to 10 of affidavit filed by Respondent No. 2 read as under:-

5. *I say that the dispute between us has been settled amicably on the terms and conditions specifically and categorically mentioned in the Consent Terms dated 7/12/2019. I confirm and admit the contents of the said Consent Terms dated: 7/12/2019, which have already been filed and verified before the Ld. Family Court, Bandra, Mumbai. I say that, needless to state, therefore, I do not seek to pursue Police case PW/1483/2016 and/or FIR being C.R. No. 125 of 2015 dated 25/3/2015 lodged with the Respondent No. 2 under section 498(A), 354, 406, 323, 504 and 506 read with section 34 of the Indian Penal Code, 1860 which is filed by me against the Petitioners, herein, and which is pending before the Ld. 17th Ld. Metropolitan Magistrate's Court, Borivali, Mumbai.*

6. *I say that as per Consent Terms dated 7/12/2019 filed and verified before Ld. Family Court, Bandra, the Petitioner No. 1, herein, has agreed to pay me the total amount of Rs. 11,50,000/- (Rupees Eleven Lakhs and Fifty Thousand Only) as full and final settlement. Thereby, as per consent terms, the Petitioner No. 1 has deposited the aforesaid amount in the Ld.*

Family Court in 2 parts i.e. Rs. 5,75,000/- each (total Rs. 11,50,000/-) on 7/12/2019 and 6/2/2020. Which I am entitled to withdraw upon the grant of Divorce by the Ld. Family Court in petition A-609/2015.

7. I say that I withdraw all the allegations which I have made against the Petitioners, herein, in the aforesaid FIR/Chargesheet. I also say that I have no other claim against the Petitioners save and except mentioned in the Consent Terms dated 7/12/2019 and specifically and categorically mentioned above.

8. I say that considering the above I have decided not to proceed in the aforesaid FIR being C.R. No. 125 of 2015 dated : 25/3/2015 and chargesheet filed in the criminal case No. PW/1483/2016 before the Ld. 17th Metropolitan Magistrate Court, Borivali, Mumbai, against the Petitioners. I say that there are no other cases pending except aforesaid matter.

*9. I therefore say that **I do not have any objection** if police case PW/1483/2016 pending before the Learned 17th Ld. Metropolitan Magistrate's Court, Borivali, Mumbai in the FIR being No. 125/2015, before Kandivali Police Station dated: 25/3/2015 for offences punishable under section 498-A, 323, 354, 504, 506 and 406 read with section 34 of Indian Penal Code, 1860 against the Petitioners is quashed by this Hon'ble Court subject to Consent Terms dated: 7/12/2019.*

10. I also say that this Affidavit is not being filed under any coercion or duress and is being prepared and filed willingly in view of Consent Terms dated 7/12/2019 which has been arrived at, between the Petitioner No. 1 and me.

4. Since the parties have amicably settled the dispute, no fruitful purpose will be served by continuing the proceedings arising out of C.R. No. 125 of 2015 registered with Kandivali Police Station for the offences punishable under Section 498-A, 354, 406, 323, 504, 506 read with 34 of IPC. In view of settlement between the parties and voluntary act of 3rd respondent to give consent for quashing the FIR and chargesheet, the chances of conviction of applicant would be bleak and remote.

5. 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

1 2012 (10) SCC 303

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

c. This Hon'ble Court be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction quash the said FIR/Charge-sheet C.R. No. 125 of 2015 for alleged offenses punishable 498(A), 354, 406, 323, 504, 506 read with 34 of Indian Penal Code 1860, and the consequential proceedings pending in pursuance to the above FIR No. 125 of 2015 bearing case no. PW/1483/2016 before the Ld. 17th Metropolitan Magistrate Court at Borivali, Mumbai, as regards the Petitioners in view of the compromise (consent terms of Divorce) entered between the parties.

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

8. The parties are directed to extend full co-operation for early disposal of the pending proceedings, if any.

9. All parties to act on an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)