

(THIS JUDGMENT IS CORRECTED AS PER THE SPEAKING TO MINUTES ORDER DATED 10TH JUNE, 2021).

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

CRIMINAL WRIT PETITION NO.2053 OF 2021

Yuvraj Raman Jadhav & Ors.	... Petitioners
Vs.	
State of Maharashtra & Anr.	... Respondents

Ms. Anushka Shreshtha for the Petitioners.
Mr.J.P. Yagnik, APP for the Respondent-State.
Mr. Jayesh Bhosle for Respondent No.2.
Mr. Yuvraj R. Jadhav - Petitioner No.1 present through V.C.
Mrs. Madhavi Jadhav (maiden name-Madhavi Sawant)-
Respondent No.2 present through V.C.

**CORAM : S.S. SHINDE &
ABHAY AHUJA, JJ.**

**DATE : 1ST JUNE 2021
(VACATION COURT THROUGH
VIDEO CONFERENCING)**

JUDGMENT : (PER ABHAY AHUJA, J.)

1. Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for parties.

2. By this Petition under Article 226 of the Constitution of India, the Petitioners are seeking to quash FIR being C.R. No.256 of

2019, registered on 19th June, 2019 by Vikhroli Police Station at Mumbai, under Sections 498(A), 406, 504, 323, 34 of the Indian Penal Code and Sections 3, 4 of the Dowry Prohibition Act, at the instance of Respondent No.2.

3. Petitioner No.1 and Respondent No.2 were husband and wife, whose marriage was solemnized on 10th January, 2017, as per Hindu rites and rituals. However, as differences arose between the parties, divorce petition was filed before the Family Court at Bandra, which was later on converted into mutual consent divorce petition under Section 13 -B of the Hindu Marriage Act, 1955.

4. It is submitted that during the pendency of the criminal matter, Petitioner No.1 and Respondent No.2 have settled their matrimonial dispute amicably and have decided to dissolve their marriage by filing consent terms dated 3rd April, 2021 before the Family Court at Bandra in Petition No.A-646 of 2019 upon the terms and conditions contained therein, which is annexed as Exhibit-B to the Petition.

5. Today we have received copy of the affidavit dated 26th

April, 2021 filed by Respondent No.2 stating as under :-

- “4. I state that, the Petitioner No.1 had approached Hon’ble Family Court at Bandra vide Marriage Petition A No.646 of 2019, seeking divorce with the Respondent No.2. Based on the FIR a case has been registered against the Petitioners at the Hon’ble Magistrate Court at Vikhroli, Mumbai bearing Case No.959/PW/2020. I say that, during the pendency of these proceedings before the Hon’ble Family Court and the Hon’ble Magistrate Court, I and the Petitioners have arrived at an amicable settlement with regard to the property and have entered into a consent terms which is filed before the Hon’ble Family Court at Bandra on 3rd April, 2021 (“**Consent Terms**”). A Copy of the Consent Terms has been annexed to the Petition.*
- 5. I say that, the Consent Terms is filed in the proceedings before the Hon’ble Family Court. I say that, all the pending disputes between the Petitioners and I have been amicably resolved by the execution of the Consent Terms. I further say that, pursuant to the execution of the Consent Terms I have no claims of any nature whatsoever against the Petitioners. I state that, the Consent terms reflects full, final and binding settlement arrived between all the concerned parties and that no dispute is subsisting between the Petitioners and me as on date.*
- 6. I say that I repeat, reiterate and confirm that I want to amicably resolve the matter and bring an end to the criminal proceedings emanating from the FIR. I further state, that the pending Marriage Petition filed by the Petitioner No.1 is now*

converted into Mutual Consent Petition on the basis of the Consent Terms filed.

7. *I say that I am not under any duress, coercion or undue influence of any manner whatsoever, either directly or indirectly and that all that is stated hereinabove is out of my free will.*
8. *I say that I am given to understand the implications of all that is stated hereinabove and in view of the amicable settlement, I have no objection if the Petition is allowed by this Hon'ble Court pursuant to which the FIR No.256 of 2019 dated 19.06.2019 registered against the Petitioners at Vikhroli Police Station, Mumbai, for offence under Sections 498(A), 406, 504, 323, 34 of Indian Penal Code, and 3 & 4 of Dowry Prohibition Act and Criminal Case bearing 959/PW/2020, pending before Ld. 50th Metropolitan Magistrate's Court at Vikhroli, Mumbai is quashed."*

6. Considering the fact that it is a matrimonial dispute, which is sought to be amicably resolved, we deem it appropriate to seek guidance from the decision of the Hon'ble Supreme Court in the case of ***Gian Singh Vs. State of Punjab And Another [(2012) 10 Supreme Court Cases 303]***. Paragraph 57 of the said decision appropriately summarises the principles applicable to such situations, which is quoted as under :-

"57. The position that emerges from the above discussion can be summarised thus: the power of

the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But 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 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. This case involves offences arising out of matrimony and is basically private or personal in nature and the parties are seeking to resolve their entire dispute. Also because of the compromise between Petitioner No.1 and Respondent No.2, the possibility of conviction would be remote and bleak and continuation of the criminal case would result in great prejudice

and/or injustice.

8. Therefore, considering the settlement and compromise between Petitioner No.1 and Respondent No.2, we are inclined to allow the Petition in terms of prayer clause (a), which reads thus :-

“a. That this Hon’ble Court be pleased to quash and set aside the FIR No.256 of 2019, registered by Vikhroli Police Station at Mumbai, under Sections 498(A), 406, 504, 323, 34 of Indian Penal Code, and 3, 4 of Dowry Prohibition Act dated 19.06.2019 and Criminal Case No.959/PW/2020 and pending before Ld. 31st Metropolitan Magistrate’s Court at Vikhroli, Mumbai, and further be pleased to discharge the Petitioners from C.C. No.256 of 2019 under Sections 498(A), 406, 504, 323, 34 of Indian Penal Code, and 3, 4 of Dowry Prohibition Act.”

9. Rule is made absolute in the above terms. There shall be no order as to costs. Writ Petition accordingly stands disposed off.

(ABHAY AHUJA, J.)

(S.S. SHINDE, J.)