

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**CRIMINAL WRIT PETITION NO.144 OF 2021**

- |    |                                                  |   |                 |
|----|--------------------------------------------------|---|-----------------|
| 1. | Rakesh Prakash Jain                              | ] |                 |
|    | Address at: 126, Ganesh Bhuvan/Zarine            | ] |                 |
|    | Manzil, 1 <sup>st</sup> floor, Caddle Road, V.S. | ] |                 |
|    | Marg, Opp. Jain Temple, Mahim                    | ] |                 |
|    | (West), Mumbai – 400 016.                        | ] |                 |
| 2. | Prakash Hukmichand Jain                          | ] |                 |
|    | Address at: 126, Ganesh Bhuvan/Zarine            | ] |                 |
|    | Manzil, 1 <sup>st</sup> floor, Caddle Road, V.S. | ] |                 |
|    | Marg, Opp. Jain Temple, Mahim                    | ] |                 |
|    | (West), Mumbai – 400 016.                        | ] | ... Petitioners |

Versus

- |    |                                           |   |                 |
|----|-------------------------------------------|---|-----------------|
| 1. | Shweta Rakesh Jain                        | ] |                 |
|    | Address at: Shanti Nagar Society, C-      | ] |                 |
|    | Wing, 4 <sup>th</sup> Floor, Flat No.402, | ] |                 |
|    | Kondhwa, Badruk, Pune – 411 048.          | ] |                 |
| 2. | State of Maharashtra                      | ] |                 |
|    | (At the instance of Dahisar East Police   | ] |                 |
|    | Station, vide C.R. No.80 of 2019)         | ] | ... Respondents |

...

Mr. Vinod V. Kashid for the petitioners

Mr. Abdul Shaikh for respondent No.1.

Ms. S.D. Shinde, A.P.P. for respondent No.2-State.

The petitioners and respondent No.2 are present in the court.

...

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

**RESERVED ON : 04<sup>TH</sup> FEBRUARY, 2021.**

**PRONOUNCED ON : 10<sup>TH</sup> FEBRUARY, 2021.**

**JUDGMENT:- [Per: Manish Pitale, J.]**

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. The petitioner No.1 is the husband and petitioner No.2 is the father-in-law of respondent No.1. The present petition is filed by the petitioners praying for quashing C.R. No.89 of 2019 registered at Dahisar East Police Station under Sections 498(A), 406, 380, 323, 504, 506 read with Section 34 of the Indian Penal Code against the petitioners.
3. We have heard learned counsel appearing for the parties. Learned counsel appearing for the petitioners and respondent No.1 jointly submit that, the petitioners and respondent No.1 have amicably settled their dispute and differences and have entered into a Compromise Deed. Respondent No.1 has also filed an affidavit to that effect. Learned counsel submit that in view of the settlement, the petition may be allowed.

4. We have perused the Compromise Deed filed by the parties and also the affidavit filed by respondent No.1. In the affidavit, respondent No.1 has stated that all the disputes and differences between her and the petitioners have been resolved through mutual consent and they have entered into a Compromise Deed/Consent Terms. She has stated in the affidavit that the affidavit and the consent terms have been made by her, without any coercion, undue influence, threat and pressure. She has further stated that she has no objection for quashing FIR No.89 of 2019 registered with Dahisar East Police Station.

5. The petitioners and respondent No.1 are present in the court. The parties have been identified by their respective advocates. We interacted with respondent No.1, who stated that it is her voluntary act to enter into the compromise and settle the dispute. She has further stated that she has no objection for quashing the FIR.

6. Upon hearing the learned counsel appearing for the parties and on perusal of the affidavit filed by respondent No.1 and in view of the settlement arrived between the parties, we are of the opinion that continuation of the further proceedings arising out of said FIR No.89 of 2019 dated 26/02/2019 registered with Dahisar (East) Police Station against the petitioners, will be an exercise in futility and an abuse of the process of the court.

7. The Supreme Court in the case of *Gian Singh v. State of Punjab & Anr.*<sup>1</sup> has held that the criminal cases having overwhelmingly and predominately 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 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, 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 has also held that 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.

8. Since the dispute between the petitioners and respondent No.1 is a family dispute and they have amicably settled their

---

<sup>1</sup> (2012) 10 SCC 303

dispute and in view of the fact that respondent No.1 is not going to support the allegations in the FIR, the chance of conviction of the petitioners is bleak and, therefore, continuation of further proceedings arising out of the said FIR would be an exercise in futility and would tantamount to abuse of process of the court.

9. In the light of discussion in foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse of the process of the court, the petition deserves to be allowed. Accordingly, rule is made absolute in terms of prayer clause (a).

10. Criminal writ petition stands disposed of in the above terms.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)