

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

Amk

WRIT PETITION NO. 2460 OF 2019

Mr. Mohd. Adil Hanif Dharodia & Ors. .. Petitioners
Vs.
State of Maharashtra & Anr. .. Respondents

Mr. Shubham G. More for the Petitioners.
Mr. Saurabh Rane for Respondent No.2.
Mr. J. P. Yagnik, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 17th FEBRUARY, 2021.

P. C. :

1. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the parties.
2. Learned Counsel appearing for Respondent No.2 has tendered across the bar affidavit on record. The same is taken on record. In paragraph 7 of the affidavit it is stated that she does not wish to proceed with her complaint and hence further investigation in FIR No. 191/2018 registered with JJ Marg Police Station, Mumbai may be stopped. Petitioner No.1 and 2nd Respondent have decided to file the proceeding for divorce. It is also stated in the affidavit that she has received Rs.6,00,000/- by way of demand draft from Petitioner No.1. Paragraphs 6 to 15 read as under:

6. I say and submit that I have tried best to have reconciliation for a happy life, but it has been very unfortunate to bring about the same.

7. I further say and submit I do not wish to proceed with my

complaint and hence the investigation being carried out in FIR No. 191/2018 at JJ Marg Police Station, Mumbai which is in process may be stopped.

8. I further say and submit that as decided by me and my husband for our better prospects we wish to file consent divorce by way of judicial separation after quashing the present pending criminal proceedings.

9. I say that the Petitioner is handing me a demand draft amount of Rs.6,00,000/- (Six Lakhs Rupees only) for the expenses borne by my family in my marriage. That the demand draft No. 858035 Union Bank.

10. I say that to secure ends of justice and to live peacefully I have hereby chosen to take back my complaint being FIR No. 191/2018 against the aforesaid persons and also decided to file divorce petition by way of mutual consent.

11. I say and submit that as the matter is getting amicably settled I have neither doubt to raise for alimony nor any maintenance after getting the divorce by way of mutual consent.

12. I say that I have also filed a Domestic Violence Complaint against the Petitioners in CC No. 90/DV/2019 before the Ld. Addl. Metropolitan Magistrate Court 69th Court Sewree, Mumbai. I also undertake to withdraw that complaint.

13. Lastly, I would say that after taking back my complaint/FIR No. 191 of 2018 and after seeking Consent Divorce I would not have any claims against my husband and also against my in laws.

14. Also I hereby submit that if the above conditions are not fulfilled then I have a right to revoke the present Affidavit which is voluntary signed and duly executed by me.

15. I say that whatever stated above are true and correct, voluntary stated without any coercion and undue influence.

3. Since the parties have settled the dispute and 2nd Respondent does not wish to proceed with the complaint filed by her, no fruitful purpose would be served by continuing the investigation in the aforesaid FIR No. 191/2018.

4. 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 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.

¹ 2012 (10) SCC 303

5. In the light of the above discussion, to secure the ends of justice and prevent the abuse of the process of the Court, the Petition deserves to be allowed.

6. Accordingly, the Petition is allowed in terms of prayer Clause (a) which reads as under:

(a) This Hon'ble court be pleased to quash the FIR/CR No. 191 of 2018 pending before Ld. M.M. 69th Court, Sewree Mumbai registered with Respondent No.1 i.e. JJ Marg Police Station for alleged offences u/s 498(a), 323, 504, 406, 506 & 34 of IPC against the Petitioners herein.

7. Rule made absolute in above terms.
Writ Petition stands disposed of.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
M.
Kadam

Digitally signed
by Arjun M.
Kadam
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