

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

CRIMINAL WRIT PETITION NO. 1197 OF 2021

1. Mr. Nirmeshkant R. Prajapati
Age : 56 Years, Occ. : Self Employed
2. Mrs. Poonam Nirmeshkant Prajapati
Age : 53 Years, Occ.: Housewife

Both Residing at Flat No. 1402,
Falcon Apt., Pannalal Ghosh Marg,
Bhandarwada, Malad (West),
Mumbai – 400 064

.... Petitioners

Vs.

1. The State of Maharashtra
Through Malad Police Station
2. Ms. Kanika Anil Sharma
Age : 28 Years, Occ.: Service,

R/at B-112, Ground Floor,
Green Field Colony, Faridabad – 121 009

.... Respondents

Mr. Ravi Gadagkar with Ms. Akshita R. Prajapati for Petitioners
Mr. Sarwadnya S. Kadtane for Respondent No.2.
Respondent No. 2 present in Court and interacted.

Mr. S.R. Shinde, APP for State.

**Coram : S.S. SHINDE AND
MANISH PITALE, JJ.**

Date : 25th March, 2021

P.C.:

1. Rule. Rule made returnable forthwith with the consent of the parties.
2. The Petitioners have filed the present writ petition seeking quashing of F.I.R. with the consent of Respondent No. 2 i.e, the original complainant.
3. On the basis of complaint lodged by the Respondent No. 2, F.I.R. No.130 of 2019 was registered against the Petitioners i.e. the father-in-law and mother-in-law of Respondent No.2, for offences under Sections 498-A, 406, 504, 323, 506, 509, 354 read with 34 of Indian Penal Code.
4. On the basis of registration of the F.I.R. investigation was undertaken. In the meanwhile, the Petitioners applied for grant of anticipatory bail and by order dated 25th June, 2019, the Court of Sessions at Dindoshi granted anticipatory bail to the Petitioners.

5. It appears that the complaint was lodged by Respondent No.2 out of her dis-satisfaction with the relationship between her and the Petitioners i.e. her father-in-law and mother-in-law. The discord between the parties, which arose out of matrimonial dispute and the friction between the in-laws and Respondent No.2, led to initiation of the criminal proceedings.

6. Thereafter, with the intervention of family members of both sides, the dispute between the Petitioners and Respondent No.2 was resolved and they decided to amicably settle the same. In pursuance of the said settlement, consent terms were tendered before this Court. These are signed by the Petitioners as well as Respondent No.2 and their respective counsel.

7. The relevant portion of the consent terms reads as follows :

“1. The Petitioners i.e. the Accused and Respondent No. 2 i.e. the complainant in the present Writ Petition have amicably resolved all their disputes which is subject

matter of the F.I.R. in the present petition. The parties have accordingly decided to arrive at a mutual agreement through the present consent terms and have agreed upon the following :

- a. That the Respondent No.2 and Petitioners have settled their dispute with intervention of family members and Respondent No.2 herein hereby unconditionally withdraws all her allegations and complaint filed with Malad Police Station made against the present Petitioners which is the subject matter of the present petition.
- b. It is agreed between the parties i.e. Petitioners and Respondent No.2 that neither the Petitioners nor Respondent No.2 shall raise any civil, criminal or any other proceeding against each other arising out of the allegations/disputes which are the subject matter of the present petition.

- c. The parties agree and undertake that there shall not be interference of either party in each other's personal affairs in future.
- d. The parties agree and confirm that there is no direct or indirect monetary settlement between Respondent No. 2 and Petitioners.
- e. The parties agree and confirm that all legal expenses with respect to this petition shall be borne by the Petitioners alone.
- f. In the light of the Clauses (a) to (e) mentioned above, the Respondent No.2 herein, withdraws all her allegations and complaint filed with Malad Police Station against Petitioners and in light of the present consent terms, the present FIR No. 130 of 2019 registered by Malad Police Station be quashed and set aside and the petition be disposed of accordingly with no order as to costs.

2. The Petitioner and the Respondents herein agree and undertake to this Hon'ble Court that the parties shall comply with their aforesaid respective obligations as mentioned in the present consent terms hereinabove.

8. It is evident from the aforesaid consent terms filed before this Court that Respondent No.2 no longer desires to pursue the criminal proceedings against the Petitioners. It is specifically stated in the consent terms that there is no direct or indirect monetary settlement between the Petitioners and Respondent No.2. Thus, it becomes clear that the Respondent No.2 will not be supporting the allegations made against the Petitioners, in case further proceedings are continued in pursuance of the said F.I.R..

9. The Hon'ble Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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

¹ 2012 (10) SCC 303

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.

10. In view of the law laid down by the Hon'ble Supreme Court in the aforesaid judgment, it becomes clear that the present petition can be allowed. The dispute between the parties arose mainly out of family

dispute and discord between the parties, which was essentially of a personal nature, not having any detrimental effect on the society at large. Therefore, it becomes clear that the present writ petition deserves to be allowed so as to prevent further proceedings in pursuance of the said F.I.R. It is more than clear that no purpose would be served in permitting the proceedings to continue further.

11. In view of above, the Writ Petition is allowed in terms of prayer clause (A), which reads thus :

“A. It is, therefore, most humbly and respectfully prayed that this Hon’ble Court may kindly be pleased to quash F.I.R. bearing No.130 at Malad Police Station u/s 498-a, 406, 504, 323, 506, 509, 354, 34 of the Indian Penal Code in the interest of justice.”.

12. Rule made absolute in above terms.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)