

VISHWANATH
SATYANARAYANA
SHERLA
Digitally signed by
VISHWANATH
SATYANARAYANA
SHERLA
Date: 2021.09.15
16:16:42 +0530

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

CRIMINAL APPLICATION NO.649 OF 2021

Shri Vinay Lalchand Sharma & others ... Applicants

Vs.

State of Maharashtra & another ... Respondents

Ms.Rekha Musale for the Applicants

Ms.Sangeeta Shinde, APP, for Respondent – State

Mr.Vivek Joshi for Respondent No.2

Respondent Nos.2 present through V.C.

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

DATED: SEPTEMBER 15, 2021

ORAL JUDGMENT (PER SHRI S.S. SHINDE, J.):

1. At the outset, the learned Counsel appearing for the Applicants prays for leave to amend the Application so as to correct the C.R. No. in prayer clause. Leave granted. Amendment be carried out forthwith.
2. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.

3. This Application takes exception to filing of First Information Report No.131 for 2018 for the offences punishable under sections 498-A, 406, 323, 504, 506 read with section 34 of the Indian Penal Code registered with Navghar Police Station, Thane and the consequent Criminal Case No.1012 of 2019 pending before the learned J.M.F.C., Thane.

4. It is jointly submitted by the learned Counsel appearing for the applicants and Respondent No.2 that the parties have amicably settled the dispute through mediation process and have filed consent terms before the Family Court, Pune. It is submitted that proceedings are also instituted by Applicant No.1 and Respondent No.2 before the Family Court, Pune for divorce by mutual consent. The aforesaid Consent terms are placed on record with the compilation of this Application.

5. Respondent No.2 has filed an affidavit in reply before this Court. She is identified by the learned Counsel appearing for her. She is present before us, through video conferencing. We have interacted with Respondent No.2 through video conferencing. She has stated that it is her voluntary act to enter into amicable

settlement with the Applicants and has joined the prayer of the applicants for quashing the First Information Report.

6. Respondent No.2 has, in paragraphs 3 to 6 of her affidavit, stated as under:

“3. I further say that the said complaint was filed by me against the Applicants above named due to some misunderstanding, between us and therefore in view of the settlement taken place between us, the Application may kindly be allowed as prayed for considering the amicable settlement, which we has been reduced in writing.

4. I further say that, the Applicant No.1 and I both are husband and wife. We do not want to proceed with the matter against each other due to amicable settlement arrived between us.

5. I further say that we both are going to take divorce by filing petition for divorce by mutual consent before appropriate court.

6. In this background, I pray that the FIR registered vide C.R. No.0131 of 2018 dated 22-03-2018, registered with Navghar Police Station, Thane, Dist. Thane, may kindly be quashed and set aside.”

7. The Applicants and Respondent No.2 have amicably settled the dispute and to that effect, as aforesaid, consent terms have been filed before the Family Court. She has stated that it is her voluntary act to enter into such settlement and she has received the amount and the ornaments as mentioned in the consent terms

filed before the Family Court. It is also stated that proceedings have been instituted before the Family Court, Pune by the Applicant No.1 and Respondent No.2 for divorce by mutual consent.

8. In view of the amicable settlement and the stand taken by Respondent No.2 before this Court, in our considered opinion, further continuation of C.R. No.131 of 2018 and the consequent Criminal Case No.1012 of 2019 pending before the learned J.M.F.C., Thane arising out of the said C.R. No.131 of 2018 would be an exercise in futility as there are chances of conviction of the applicants are bleak and remote.

9. 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 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

¹ 2012 (10) SCC 303

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 that view of the matter, in order to secure the ends of justice and to prevent further abuse of the process of the concerned Court, we are inclined to allow the Application. Accordingly, the Application is allowed and Rule made absolute in terms of prayer clause (a) which reads as under:

“a. By an appropriate Writ, order or direction of this Hon'ble Court the records and proceedings of Regular Criminal Case No.1012 of 2019 pending before the Ld.J.M.F.C., Thane arising from C.R. No.131 of 2018 registered with Navghar Police Station, Thane may kindly be

quashed and set aside the entire proceedings as amicably settled between the Applicants and Respondent No.2;”

11. It is informed that the next date of hearing before the Family Court, Pune is 22nd September, 2021. We request the Family Court, Pune to endeavour to dispose off the pending proceedings preferably on the next date of hearing subject to cooperation by the parties.

12. Criminal Application stands disposed off accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)