

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.588 OF 2021

Mr. Kushant Jayram Fule]
Age 26 years, Occ : Service, R/at :]
Dahigaon, Tal. Malsiras, Dist. Solapur]..... Petitioner.

Versus

1] The State of Maharashtra]
]]
2] Officer-In-Charge]
Bharati Vidyapeeth Police Station, Pune]
]]
3] Mrs. Kavita Keshav Rathod]
Age : 23 years, R/at : Anandnagar, Tal.]
Pathari, Dist. Parbhani]..... Respondents.

Mr. P A Bhise for the Petitioner.
Ms. S D Shinde, APP for the Respondent/State.
Ms. Sukhada Dalvi for Respondent No3.

CORAM : S. S. SHINDE,
MANISH PITALE, JJ
Reserved on : 11th FEBRUARY 2021
Pronounced on : 16th FEBRUARY 2021

COMMON JUDGMENT : (PER S S SHINDE, J)

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

2 By this Writ Petition the Petitioner seeks quashing of FIR No.201 of
2018 dated 04/08/2018 lodged by Respondent No.3 against the Petitioner

with Sahakar Nagar Police Station, Pune, for the offences punishable under Sections 376(1), 373, 504 and 506 of the Indian Penal Code. On the ground of jurisdiction, Sahakar Nagar Police Station, Pune transferred the said FIR to Bharati Vidhyapeeth Police Station, Pune which is bearing No.383 of 2018 dated 05/08/2018 for the same offences. The Petitioner is the husband of Respondent No.3 and he is an accused in the complainant lodged by Respondent No.3.

3 The learned counsel appearing for the Petitioner and the learned counsel appearing for Respondent No.3 jointly submits that the parties have amicably settled the dispute and to that effect Respondent No.3 has filed her consent affidavit.

4 It is submitted by the learned counsel for Respondent No. 3 that it is the voluntary act of Respondent No. 3 to arrive at settlement and give consent for quashing the impugned FIR.

5 This matter was on board on 11/02/2021 for hearing. At that time the 3rd Respondent was present in the Court. She was identified by her advocate. When we interacted with her, she stated that it is her voluntary act to enter into the settlement. She further stated that she has no objection for quashing the impugned FIR. As stated herein above, in support of her aforesaid

statements, she has filed her consent affidavit before this Court.

6 In paragraphs 3 to 7 of her affidavit filed by Respondent No.3, she has stated thus :-

“3 I say that on 11.08.2018 the Petitioner and I got marry and accordingly we are staying with each other as husband and wife.

4 I say that pending the said F.I.R., the dispute between me and the Petitioner has been amicably resolved/settled.

5 I say that the Petitioner and I have withdrawn all the allegations levelled against each other. Since the matter has been amicably resolved and settled by and between the parties, and the nature of the offences registered in the said both F.I.R. is such, that no purpose will be served whatsoever, to continue, prosecute and pursue the said F.I.R. any further.

6 In view of this, I hereby give my irrevocable consent to quash the aid FIR No.201 of 2018 dated 04/08/2018 registered as Sahakar Nagar Police Station, Pune and transferred FIR No.382 of 2018 dated 05/08/2018 registered at Bharati Vidhyapeeth Police Station, Pune under Section 376(1), 323, 504, 506 of the Indian Penal Code 1860 against the accused named therein. I consent for granting of present Petition as prayed.

7 In view of this, I submit that by consent, the present
Petition may be made absolute with cost.”

7 In view of settlement arrived between the parties, no fruitful purpose will be served by continuing the further investigation of impugned FIR lodged by Respondent No.3 against the Petitioner for the offences punishable under Sections 376(1), 323, 504, 506 of the Indian Penal Code. We have perused the allegations in the FIR and noticed that prior to the marriage of the Petitioner and the 2nd Respondent their relationship was consensual, and therefore, an alleged offence under Section 376(1) of the Indian Penal Code is not made out. The Petitioner has placed on record the Certificate of Registration of Marriage at Exhibit B on Page 14 of the Writ Paper Book.

8 The 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 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

1 2012 (10) SCC 303

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.

9 In the light of discussion in foregoing paragraphs, it is abundantly clear that the Respondent No. 3 is not going to support the allegations in the impugned FIR and further continuation of investigation in the impugned FIR lodged by the 3rd Respondent against the Petitioner/Accused for the offences punishable under Sections 376(1), 323, 504, 506 of the Indian Penal Code would tantamount to the abuse of the process of the Law/Court. Since the Respondent No.3 is not going to support the allegations in the FIR the chances of the conviction of the Petitioner would be remote and bleak. In that view of the matter, the Writ Petition deserves to be allowed and the impugned FIRs are required to be quashed and set aside. Accordingly the Writ Petition is allowed. The impugned FIR No.201 of 2018 dated 04/08/2018 lodged by Respondent No.3 against the Petitioner with Sahakar Nagar Police Station, Pune, for the offences punishable under Sections 376(1), 373, 504 and 506 of the Indian

Penal Code which has been transferred to Bharati Vidhyapeeth Police Station, Pune bearing FIR No.383 of 2018 dated 05/08/2018 for the same offences are quashed and set aside.

10 Rule is made absolute to above extent and, the Writ Petition stands disposed of accordingly.

[MANISH PITALE, J]

[S. S. SHINDE , J]