

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.215 OF 2021

Mandira
Salgaonkar

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1. **Mr.Hemant Yashwantraai Sheth,**)
Aged : 51 years, Occ : Freelancer)
)
2. **Mr.Yashwantraai Papatlal Sheth,**)
Aged : 79 years, Occ : None)
)
3. **Smt.Minaxi Yashwantraai Sheth,**)
Aged : 78 years, Occ :Housewife)
)
4. **Mr.Ashmin Yashwantraai Sheth,**)
Age : 57 years, Occ : Business)
)
5. **Smt.Vaishali Ashmin Sheth**)
Age : 52 years, Occ : Housewife)
All Residing together at Flat No.202,)
New Vaishali Apartment, Nursing)
Lane, Opp N.L.College, Malad (West))
Mumbai 400 064) .. **Petitioners**

Versus

1. **The State of Maharashtra**)
(Through Malad Police Station))
)
2. **Mrs.Kinnari Hemant Sheth**)
@Ms.Kinnari Lakhani)
Aged about 50 years, Occ : Service,)
Having Address at Opp City Plaza)
Mall, 260 Statton Road, 30 Oberoi)
House, 3rd Floor, Santacruz (West))
Mumbai 400 055) .. **Respondents**

...

Mr.Sujeet Pathak for the Petitioners.

Mr.Kiran S. Mohite for Respondent No.2.

Respondent No.2 present in Court.

Mr.K.V.Saste, APP for Respondent No.1/State.

M.M.Salgaonkar

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

DATED : 09th FEBRUARY, 2021

JUDGMENT [PER MANISH PITALE, J]

1. Rule. Rule made returnable forthwith. With the consent of the learned counsel appearing for the parties, heard finally.

2. This petition is filed for the following substantial relief :-

(b) This Hon'ble Court by invoking powers u/s 482 of Code of Criminal Procedure, 1973 be pleased to quash the Criminal Case bearing No.264/PW/2013 pending on the file of the Hon'ble Additional Chief Metropolitan Magistrate 24th Court at Borivali, Mumbai arising out of C.R.No.19/2012 lodged with Malad Police Station (Respondent No.1) at the instance of Respondent No.2 for the offences punishable under section 323, 341, 342, 346, 350, 352, 354, 403, 406, 420, 498(A), 506 and 34 of the India Penal Code, 1860."

3. Learned counsel appearing for the petitioners and respondent No.2 jointly submit that the parties have amicably settled the dispute and to that effect respondent No.2 has filed consent affidavit. Same is taken on record. It is submitted that in view of the said settlement, impugned criminal proceedings be quashed.

4. Respondent No.2 is present before this Court. On interaction with respondent No.2, she has stated that it is her voluntary act to agree for settlement. She has further stated that she has filed the aforesaid affidavit on her own free will and without any coercion

and she has no objection for quashing the criminal proceedings. It is stated by respondent No.2 that she has received Rs.2,50,000/- towards permanent alimony from petitioner No.1. Since the parties have amicably settled the dispute, no purpose will be served by continuing the further proceedings.

5. The Supreme Court in the case of **Gian Singh 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 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.

¹ 2012 (10) SCC 303

6. Since the petitioners and respondent No.2 have amicably settled the dispute, we are inclined to allow this petition as respondent No.2 is not going to support the prosecution case and chance of conviction of the petitioners would be bleak, and therefore, continuation of further further proceedings, would be an exercise in futility and would tantamount to abuse of process of the Court.

7. In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the Court, the petition deserves to be allowed and the criminal proceedings are required to be quashed.

8. The writ petition is allowed. Rule is made absolute in terms of prayer clause (b). The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)