

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2708 OF 2018

- 1] Vishal Vedprakash Tandon]
age 36 years, Occu – Service]
2] VedPrakash Tandon]
Age : 80 years, occ : Retired]
Both residing at A-1/304, Oxford Village,]
Wanawadi, Pune – 411040]..... Petitioners

versus

- 1] The State of Maharashtra]
through the Wanawadi Polie Station, Pune]
2] Bipasha Vishal Tandon]
residing at Flat No.601, Building No.C-3,]
Celebria Apartment, Hadapsar]
Pune-411028]..... Respondents.

Mr. Nitesh Mohite i/by Mr. Satyavrat Joshi for the Petitioner.
Mr. J P Yagnik, APP for the Respondent No.1/State.
Mr. Debajyoti Talukdar for Respondent No.2.
Respondent No.2 present.

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

DATE : 06th August 2021

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

1 The learned counsel appearing for the Petitioners submits that after filing of this Petition, the charge-sheet is filed. He, therefore, seeks leave to amend so as to take exception to the charge-sheet and incorporate the

prayer in the prayer clauses for quashing the charge-sheet. Leave granted.
Amendment to be carried out forthwith.

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

3 The learned counsel appearing for the Petitioners and the 2nd
Respondent jointly submit that the parties have amicably settled the dispute
and instituted the proceedings before the Family Court at Pune for divorce by
mutual consent.

4 The 2nd Respondent is present before this Court through video
conferencing. She is identified by her advocate. We have interacted with the 2nd
Respondent through video conferencing. She stated that it is her voluntary act
to enter into such settlement and to give consent for quashing the impugned
FIR and the Charge-sheet.

5 The 2nd Respondent has filed the affidavit praying therein to quash
Crime No.201 of 2018 registered with Wanawadi Police Station for the offences
punishable under section 498A and 506 of Indian Penal Code and Sections 3
and 4 of Dowry Prohibition Act. Paragraphs 3 to 11 of the Affidavit of the 2nd
Respondent read as under :-

- “3 *I say that present Petitioner No.1 Vishal Ved Prakash Tandon is my husband and Petitioner No.2 Ved Prakash Tandon is my father-in-law.*
- 4 *I say that pursuant to the above-mentioned FIR, the Petitioners have filed the aforesaid Criminal Writ Petition, thereby praying the quashing of First Information Report bearing C.R. No.201 of 2018, u/s. 498-A, 506 of the Indian Penal Code and Section 3 and 4 of Dowry Prohibition Act and the Criminal Writ Petition the Petitioners had challenged the same on merits.*
- 5 *I say that the present matter arose out of matrimonial dispute. The parties have already settled the issues. We, the Respondent No.2 and Petitioner No.1 have decided to amicably resolve the dispute. In the light of these circumstances, I further say that, me the Respondent No.2 being the First Informant/Original Complainant doesn't want to go ahead with the proceedings of the C.R. No.201 of 2018 registered with the Wanavadi Police Station, Pune and hence the FIR and the consequent chargesheet need to be quashed.*
- 6 *I say that me and Petitioner No.1 have filed for Divorce for mutual consent under section 28 of the Special Marriage Act before the Hon'ble Family Court of Pune. In the said Application, me and Respondent No.2 have filed the consent terms which is agreed by both. Annexed hereto and marked as Annexure-A is the copy of Consent terms filed in family court of Pune.*
- 7 *I further say that in the light of the above facts and circumstances I take back the allegations made against the Petitioners and thereby consenting the writ petition to be quashed.*
- 8 *I say that I also do not have any further grudge or grievance against the Petitioner. Hence I say that I withdraw the allegations made against the Petitioners and thereby pray to this Hon'ble Court to treat the aforesaid Writ petition as quashing by consent. We the*

and Respondent No.2 and the Petitioners do not have any grudge against each other.

- 9 *I say that, in the light of the fact that myself and Petitioners have arrived at an amicable settlement as there would be no fruitful purpose served by continuing the criminal proceedings. Hence I am consenting to the prayers that Criminal proceeding in C.R. No.201 of 2018 registered with the Wanavadi Police Station, Pune be quashed and set aside.*
- 10 *I say that I am filing the present Affidavit on my own volition and free will, without there being any pressure, coercion and/or force upon me.*
- 11 *I say that I am filing the present Affidavit on the basis of my free will and I have not been influenced or induced by anybody to file the present Affidavit.”*

6 In view of the amicable settlement between the parties and since the Petitioner No.1 and the 2nd Respondent have instituted the proceedings before the Family Court at Pune for divorce by mutual consent, no fruitful purpose will be served by continuing the further proceedings in RCC No.1087 of 2018 pending on the file of the learned JMFC, Cantonment Court, Pune arising out C R No.201 of 2018 registered with Wanawadi Police Station, Pune for the offences punishable under Sections 498-A, 506 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

7 The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ has held that, the criminal cases having overwhelmingly and

1 2012 (10) SCC 303

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.

8 Since the Respondent No.2 is not going to support the allegations in the FIR, the chances of conviction of the Petitioners would be remote and bleak. In order to secure the ends of justice and to prevent the abuse of process of the Court, it would be appropriate to quash and set aside impugned FIR and the Charge-sheet being RCC No.1087 of 2018 pending on the file of the learned JMFC, Cantonment Court, Pune arising out C R No.201 of 2018

registered with Wanawadi Police Station, Pune for the offences punishable under Sections 498-A, 506 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

9 In that view of the matter, the Writ Petition deserves to be allowed and, the same is allowed in terms of prayer clause (aa) which reads thus :-

“(aa) that this Hon’ble Court may be pleased to quash and set aside FIR No.201 of 2018 and the RCC No.1087 of 2018 pending on the file of Ld. JMFC, Cantonment Court, Pune arising out of C.R. No.201 of 2018, registered with Wanawadi Police Station, Pune.”

10 The parties shall extend full cooperation for early disposal of the pending proceedings before the Family Court at Pune and the parties shall attend the said Court on the dates fixed by the said Court. The Family Court at Pune shall expedite the proceedings pending before it. The parties shall abide strictly with the consent terms arrived at between them.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]