

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3363 OF 2017

Hemant Vasant Wankhede & Ors.

...Petitioners

Versus

The State of Maharashtra & Anr.

...Respondents

...

Mr. Dilip B. Shinde for Petitioners.

Mr. Rakesh Patil for Respondent No. 2,.

Respondent No. 2 is present through VC.

Mr. V.B. Konde-Deshmukh, APP for State.

...

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

DATE : 30th JULY, 2021.

ORAL JUDGMENT:

1. At the outset, learned counsel for the petitioners prays
for leave to amend, so as to amend the prayer clause of the petition.

Leave granted. Amendment to be carried out forthwith.

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

3. This petition is filed with following substantive prayer:-

*A1) Be pleased to quash the FIR
lodged by the Respondent No. 2 vide
C.R. No. I-160/2017 registered with
Vithalwadi Police Station, Ulhasnagar
Under Section 498(a), 406, 323, 504,
506 along with 34 of Indian Penal*

Code as well as Regular Criminal Case No. 336 of 2018 pending before the Learned 7th Civil Judge, Junior Division & Judicial Magistrate First Class, Ulhasnagar, arising out of above referred FIR.

4. Learned counsel appearing for the petitioner and 2nd respondent jointly submit that the parties have amicably resolved the dispute and the 2nd respondent has no objection to quash the impugned FIR and chargesheet.

5. Respondent No. 2 is present before this Court through video conferencing. We have interacted with the 2nd respondent. She stated that it is her voluntary act to enter into amicable settlement and give consent for quashing the FIR and chargesheet. 2nd respondent has also filed the affidavit. Para No. 3 and 4 of her affidavit read as under:-

3. I further state and submit that, thereafter, my parents and parents of the Petitioner No. 1 set together and the dispute of Petitioner No. 1 and Respondent No. 2 is amicably settled between the parties. I further say that, after filing of abovementioned writ petition the Petitioner No. 1 and Respondent No. 2 decide to take mutually divorce filing marriage Petition before the Civil Judge, Senior Division, Kalyan and accordingly the Marriage Petition No. 194 of 2019 was filed before the Civil Judge, Senior Division, Kalyan for decree of Divorce. The abovementioned Marriage Petition was allowed vide order

dated 30.12.2019, passed by the Civil Judge, Senior Division, Kalyan and decree of Divorce has been passed. I further state that, now-a-days the we are staying separately without any interference in life of each other. I further state and submit that, I have no objection for quashing of FIR No. I-160 of 2017, registered with Vitthalwadi Police Station, Ulhasnagar, on 26.5.2017 for the alleged offences Under Section 498A, 406, 323, 504, 506 along with 34 of Indian Penal Code on the basis of complaint filed by me.

4. *I further state and submit that, dispute of Petitioners and Respondent No. 2 is amicably settled between the parties and now both are staying separately without any interference in life of each other and therefore for the interest of both the parties it is necessary to quash and cancel the FIR No. I-160 of 2017, registered with Vitthalwadi Police Station, Ulhasnagar, on 26.5.2017 for the alleged offences Under Section 498A, 406, 323, 504, 506 along with 34 of Indian Penal Code against the Petitioners. I further state and submit that, by way of the present affidavit I am giving free consent before this Hon'ble Court for quashing of FIR No. I-160 of 2017, registered with Vitthalwadi Police Station, Ulhasnagar, on 26.5.2017 for the alleged offences Under Section 498A, 406, 323, 504, 506 along with 34 of Indian Penal Code against the Petitioner.*

6. Since the parties have amicably resolved the dispute and 2nd respondent has given consent for quashing the FIR and proceedings arising out of the same by way of filing an affidavit, no fruitful purpose would be served by continuing the further proceedings i.e. Regular Criminal Case No. 336 of 2018 pending

before the learned 7th Civil Judge, Junior Division & Judicial Magistrate First Class, Ulhasnagar arising out of C.R. No. I-160/2017 registered with Vithalwadi Police Station, Ulhasnagar for the offence punishable under Section 498-A, 406, 323, 504, 506 read with 34 of IPC.

7. 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 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

1 2012 (10) SCC 303

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. In view of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of Court, the petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (A1), which is reproduced in para no. 3 of this order.

9. Rule made absolute to above extent. The writ petition stands disposed of.

10. Parties to act upon an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)