

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 3758 OF 2018**

1. Ramman Vijay Handa
Age : 33 years, Adult of Indian
inhabitant, Occupation : ---
Residing at 903, Renaissance CHS
Ltd, Lokhandwala Complex, Andheri
West, Mumbai 400 053.
2. Vijay Handa
Age : 65 years, Adult of Indian In
habitant, Occupation Retd. Govt.
Residing at K-1/70, Galli No.36, Sam
Bazar Road, Raja Puri, Uttam Nagar,
West Delhi, Delhi 110059
3. Mrs. Shashi Handa
Age : 62 years, Adult of Indian
Inhabitant, Occupation : ---
Residing at K-1/70, Galli No.36, Sam
Bazar Road, Raja Puri, Uttam Nagar,
West Delhi, Delhi 110059

...Petitioners

Versus

1. The State of Maharashtra
Through Senior Police Inspector,
Amboli Police Station, Mumbai
2. Mrs. Divya Arya Handa
Age : Adult, Adult of Inhabitant,
Occu.: Service, Residing at D/904,
Royal Classic, New Link Road, Andheri
(West), Mumbai 400 053.

...Respondents

Ms. Shreya Shrivastava, a/w Mr. K. V. Phoole, for the
Petitioners.

Mr. V. B. Kondedeshmukh, APP for the State/Respondent
no.1.

Mr. Ashok M. Bhatia, for Respondent no.2.

Respondent no.2 is present through Video Conferencing and
interacted.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ**
DATED: 6th AUGUST, 2021
(Through V.C.)

JUDGMENT:-

1. Rule. Rule made returnable forthwith and, with the consent of the learned Counsels for the parties, heard finally.

2. This petition is filed to quash CC No.957/PW/2017 pending on the file of the learned Metropolitan Magistrate, 66th Court, Andheri, arising out CR No.12 of 2016, registered with Andheri Police Station, Mumbai, for the offences punishable under Sections 498-A, 406, 506, 500, 377 read with Section 34 of the Indian Penal Code (“the Penal Code”) and Section 67(A) of the Information Technology Act, 2000, at the instance of Mrs. Divya, respondent no.2.

3. Petitioner no.1 Ramman is the husband of respondent no.2. Petitioner nos.2 and 3 are the in-laws of respondent no.2. The marriage of petitioner no.1 and respondent no.2 was afflicted with discord and eventually respondent no.2 lodged a report bearing FIR No.12 of 2016 for the offences punishable under Sections 498-A, 406, 506, 500, 377 read with Section 34 of the Indian Penal Code (“the Penal Code”) and Section 67(A) of the Information Technology Act, 2000.

4. Ms. Shrivastava, the learned Counsel for the petitioners and Mr. Bhatia, the learned Counsel for respondent no.2 make a joint statement that the dispute between the petitioners and respondent no.2 has been amicably resolved. The parties have executed the Consent Terms before the learned Metropolitan Magistrate 66th Court, Andheri, in CC No.3/DV/2016, instituted by respondent no.2 under the Protection of Woman from Domestic Violence Act, 2005. Copy of the said Consent Terms is annexed to the petition at Exhibit-D. The learned Counsel for respondent no.2 further submits that respondent no.2 has also sworn an affidavit before this Court.

5. Mrs. Divya – respondent no.2 appeared before the Court through Video Conferencing. She was identified by Mr. Bhatia, the learned Counsel for respondent no.2. We have interacted with Mrs. Divya – respondent no.2. She submits that she has voluntarily settled the dispute with the petitioners and filed the affidavit, out of her own volition. There is no coercion or duress. Paragraphs 3 to 15.1 of the affidavit read as under:

“3. I say that me and the Petitioners being well cultured, educated people belonging to respectable families found it fit not to fight a distasteful litigation and decided to part as friends. I say that me and the Petitioner No.1 are able bodies

persons and are gainfully employed in our career. We both have our individual source of income and are not dependent on each other. Now the entire dispute between me and the Petitioner is amicably resolved and we have agreed to dissolve our marriage by mutual consent as per provisions of section 13(B) of the Hindu Marriage Act, 1955.

4. I say that consent terms were executed between the Petitioner No.1 and me. As against total amount of Rs.15,80,000/-, as agreed the Petitioner No.1 has paid me part amount of Rs.10,00,00/- by way of Demand Draft, against which I have already withdrawn the below-mentioned cases filed by me against the Petitioner No.1.

i) C.C.No. 218/SS/2016 before the Learned Metropolitan Magistrate, 44th Court, at Andheri, Mumbai and return the original Cheque and memo and documents pertaining to the case; and

ii) C.C.No.3/DV/2016 pending before the Learned Metropolitan Magistrate, 66th Court, at Andheri, Mumbai.

5. I say that, in this present Criminal Writ Petition No.3758 of 2018, the Petitioner No.1 has got issued demand draft of Rs.4,00,000/- dated 24/06/2021 drawn on HDFC Bank, bearing 000354. I consent before this Hon'ble Court for quashing of F.I.R. No.12/2016 and chargesheet bearing Criminal Case No.957/PW/2017 registered at Amboli Police Station u/s. 498-A, 406, 500, 506, 377 r/w 34 of Indian Penal Code, 1860 r/w 67A of the Information Technology Act pending before the Learned Metropolitan Magistrate, 66th Court at Andheri, Mumbai.

6. The Petitioner No.1 will file for mutual consent divorce on or before 31st August 2021 and will pay to me, vide Demand Draft, Rs.1,80,000/- upon filing of Claim Affidavit at the Family Court at Bandra Kurla Complex, Bandra, without any default.

7. I say that upon receiving total payment of Rs.15,80,000/-, I and the Petitioner No.1, hereby withdraw all the allegations made against each other.

8. I say that I and the Petitioner No.1 hereby declare and that save and except what is stated herein, I and the Petitioner No.1 have no claim of whatsoever nature against each other and/or their and claims if any, hereby stands waived permanently.

9. I say that I and the Petitioners hereby declare that they or their respective families have not filed and any other civil and/or criminal proceedings/complaints in any police station, court or before any other authority against any each

other and/or against their respective families. Complaints if any hereby stand withdrawn forthwith.

10. I say that upon receiving total payment of Rs.15,80,000/-, I will not claim any amount in future and will not file any case in any Court of Law and I have waived all my rights of maintenance for past, present, future even in changed circumstances and agreed for one time settlement.

11. I say that me and the Petitioners have exchanged all our articles, belongings valuables at the time of signing of consent terms.

12. I say that it has been further mutually agreed that the amount payable of Rs.4 lakhs (Rupees Four Lakhs) by D.D. shall be encashed by me at the time when the Criminal Case is finally quashed by this Hon'ble Court. Copy of Demand Draft is hereto annexed. In any event, I irrevocably consent for quashing of F.I.R. and chargesheet and reserve my right to deposit and encash the demand draft dated 24/06/2021 within its validity period of 3 months, if the present Writ Petition remains pending before this Hon'ble Court due to any unforeseen circumstances or any eventuality, beyond the control of both the parties.

13. I say that I have received all my personal belongings, articles etc. amongst other things from the Petitioner No.1. I say that henceforth I have no claims of whatsoever nature against the Petitioner No.1.

14. I say that upon receiving total payment of Rs.15,80,000/- I shall not have any claims/share/interest in the movable and immovable assets acquired by the Petitioner No.1 before or after the said marriage and divorce.

15. I further undertake not to file any civil or criminal complaint/proceedings against the Petitioner No.1 now or in future regarding matrimonial subject matter before any forum in India, upon receiving total payment of Rs.15,80,000/-"

6. It appears that the marital discord between the petitioner and respondent no.2 was the genesis of the offence. Petitioner no.1 and respondent no.2 have amicably resolved the dispute. They submitted that they have agreed to obtain divorce by mutual consent. In this view of the matter, the

continuation of the prosecution would not serve any fruitful purpose. As the dispute is resolved, it is very unlikely that the respondent no.2 would support the prosecution and it will end in conviction. Continuation of prosecution in such circumstances would amount to the abuse of the process of the Court and unnecessarily put burden on the criminal justice system.

7. An useful reference in this context can be made to the judgment of the Supreme Court in the case of *Gian Singh vs. State of Punjab and another*¹, wherein the Supreme Court has observed as under;

“61..... 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 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

8. The aforesaid pronouncement applies with the equal force to the facts of the case at hand. Thus in order to secure the ends of justice and prevent the abuse of the process of the Court, we are inclined to allow the petition.

9. Hence the following order:

: ORDER :

The petition stands allowed in terms of prayer Clause (a), which reads as under;

(a) By appropriate writ, order or direction, this Hon'ble Court may be pleased to quash and set aside C.C.No.957/PW/2017 pending before 66th Metropolitan Magistrate arising out of CR No.12 of 2016 dated 14/01/2016 registered with Amboli Police Station, Mumbai, for the offences punishable u/s 498-A, 406, 506, 500, 377 r/w 34 of the Indian Penal Code, 1860 and Section 67(A) of the Information Technology Act, 2000.

Rule made absolute in aforesaid terms.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]