

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 4407 OF 2017

1. Mr. Ritesh Arvind Shah
Aged 34 years; Occ: Service.
2. Mr. Arvind Sobhagchand Shah
Aged 63 years, Occ: Retired.
3. Mrs. Neelam Arvind Shah
Aged 61 years, Occ: Housewife.
All resident of
Dhanashree Kunj, Block-B
2nd Floor, 46, Rupchand Mukherjee
Lane, Behind Bhowanipore Police
Station, Kolkata- 700025.

...PETITIONERS

Versus

1. The State of Maharashtra
Through Nerul Police Station
in C.R. No. 222 of 2017.
2. Mrs. Shweta Ritesh Shah
Flat No. 302, Balaji Krupa CHS
Plot 3-A, Sector 28,
Nerul (W), Navi Mumbai- 400 706.

...RESPONDENTS

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Ms. Deepika M Bafna for Petitioner.
Mr. Amol A Patankar for Respondent No. 2.
Smt. A.S. Pai, APP for State.
Respondent No. 2 is present.

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

DATE : 8th MARCH, 2021.

ORAL JUDGMENT [PER S.S. SHINDE, J.]

. Learned counsel appearing for the petitioners prays for leave to amend. 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. Learned counsel appearing for the petitioners and Respondent No. 2 submits that the parties have amicably settled the dispute. Learned counsel for the Respondent No. 2 has tendered across the bar, affidavit of Respondent No. 2, the same is taken on record. Paragraphs 1 to 7 of the said affidavit are read as under:-

1. I say that I am the Ori. Complainant in C.R. No. 222 of 2017 registered with Nerul Police Station on 28.06.2017 for offences punishable under sections 498-A, 406, 323 r/w. 34 of the Indian Penal Code.

2. I say that thereafter charge sheet came to be filed. The case is numbered as R.C.C. No. 499 of 201/8 which is now pending before the 9thJt. C.J.J.D. and JMFC Vashi, Navi Mumbai.

3. I say that after the intervention of respectable persons from of both sides to resolve the matrimonial dispute between the petitioner no. 1 and me the disputes have now been amicably resolved. I say that pursuant to the amicable settlement the Consent Terms dated 12/07/2019 have been executed between me

and all the petitioners in the criminal writ petition 4407 of 2017. The copy of Consent Terms dated 12/07/2019 is annexed herewith.

4. I say that as per paragraph 3, sub clause C, of the aforesaid consent terms dated 12/07/2019 I have agreed to withdraw the case filed u/s 498(A) of the IPC which is registered with Nerul Police Station Navi Mumbai as CR no 222/2017 and is now pending before the 9thJt. C.J.J.D. and JMFC Vashi, Navi Mumbai as RCC No. 499 of 2018.

5. I say that as per the paragraph 3 of consent terms the petitioners have agreed to pay full and final alimony of Rs. 15,00,000/- (Rs Fifteen Lakhs). I say that on execution of the consent terms, I have received Rs. 5,00,000/- (Rs. Five Lakhs) and today as per the consent terms I have received further payment of Rs. 5,00,000/- (Rs Five Lakhs) by way of Demand Draft bearing no. 813224, dated 16/12/2020, drawn on Standard Chartered Bank. I say that the balance amount of Rs. 5,00,000/- (Rs. Five Lakhs) will be paid before the Family Court on filing of the evidence for divorce by mutual consent.

6. I say that as per the consent terms dated 12/7/2019, I have no objection to allow the quashing of the CR No 222/2017 registered with Nerul Police Station Navi Mumbai and the case pending before the 9thJt. C.J.J.D. and JMFC Vashi, Navi Mumbai as RCC No. 499 of 2018 against all the petitioners in Criminal W.P. No. 4407 of 2017.

7. I say that I am making this present Affidavit out of my free will and I further say that there is no coercion or force or threat in making the present Affidavit.

4. The Respondent No. 2 is present before this Court. She stated that it is her voluntary act to enter into the settlement and join the prayer of petitioners for quashing the proceedings arising out of RCC No. 499 of 2018 pending before the 9th Jt.C.J.J.D. and JMFC, Vashi, Navi Mumbai.

5. Since the parties have amicably settled the dispute and Respondent No. 2 had joined the prayer of petitioners for quashing the impugned FIR, no fruitful purpose will be served by continuing the further proceedings arising out of RCC No. 499 of 2018 pending before the 9th C.J.J.D. and JMFC, Vashi, Navi Mumbai. Further continuation of aforesaid proceedings would be an exercise in futility and tantamount to the abuse of the process of the concerned court.

6. The Supreme Court in the case of **Giansingh 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 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 resolves

¹ 2012 (10) SCC 303

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.

7. In the light of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of the Court, the petition deserves to be allowed. Accordingly, the writ petition is allowed. The proceedings bearing RCC No. 499 of 2018 pending before the 9th Jt. C.J.J.D. & JMFC, Vashi, Navi Mumbai, arising out of FIR No. 222 of 2017 registered with Nerul Police Station on 28.06.2017 for offences punishable under Sections 498-A, 406, 323 read with 34 of the IPC, stands quashed and set aside. Rule made absolute to above extent. The writ petition stands disposed of.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)