

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

CRIMINAL WRIT PETITION NO.6361 OF 2019

Kashap Anantraai Mehta & Others

... Petitioners

Vs.

State of Maharashtra & another

... Respondents

Ms.Aditi Naikare for the Petitioners

Ms.Sangeeta Shinde, APP, for Respondent – State

Dr.S.S. Karmarkar i/b Karmarkar & Associates for Respondent
No.2

Respondent No.2 – present through V.C.

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

DATED: JULY 15, 2021

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

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

2. This Petition takes exception to filing of First Information Report No.453 of 2016 for offences punishable under sections 498-A, 406 read with section 34 of the Indian Penal Code registered with Pantnagar Police Station, Mumbai and the consequent Criminal Case No.1026/PW/2017 in the Court of Metropolitan Magistrate, 73rd Court at Vikhroli, Mumbai.

3. Learned Counsel appearing for the petitioner and Respondent No.2 jointly submit that the parties have amicably settled the dispute and to that effect, consent terms have been filed before the Family Court at Bandra. The proceedings instituted before the Family Court at Bandra have been finally disposed of.

4. Respondent No.2 is present and we have interacted with her through video conferencing. She stated that it is her voluntary act to enter into amicable settlement with the petitioners and to consent for quashing the First Information Report and the chargesheet. She stated that the proceedings before the Family Court at Bandra have already been disposed of.

5. Respondent No.2 has filed an affidavit. In the said affidavit, in paragraphs 1 to 4, it is stated as under:

“1. I say that, I am the First Informant in CC No.1026/PW/2017 pending before the Ld.Metropolitan Magistrate’s 73rd Court at Vikhroli, Mumbai arising out of FIR bearing CR No.453/2016 registered by the Pant Nagar Police Station on 30th November, 2016, for the offence u/sec. 498-A, 406 read with 34 of IPC. I say that, I have perused the Petition filed by the Petitioners and as such I am competent to depose the present Affidavit.

2. I say that, pursuant to the mediation and the consent terms filed before the Hon'ble Family Court at Bandra, Mumbai, I say that, I have no objection if the present Petition is allowed and CC. No.1026/PW/2017 pending before the Ld.Metropolitan Magistrate's 73rd Court at Vikhroli, Mumbai, arising out of FIR bearing C.R. No.453/2016 registered by the Pant Nagar Police Station on 30th November, 2016 for the offence u/sec.498-A, 406 read with 34 of the IPC is quashed and set aside. I say that, we have settled the disputes in terms of Consent Terms Dated 14/012/2019 (*sic*) at Exhibit-C to the Petition.

3. I say that, it is assured by the Petitioners that, as a condition for quashing the said case, if this Hon'ble Court is inclined to direct to deposit/pay any amount, whatsoever nature it, it shall be responsibility of the Petitioners to comply it on behalf of the Respondent No.2 as well.

4. I say that, I am deposing the present Affidavit to file it before this Hon'ble Court, at my free will, without any force, fraud or coercion, as if it is, I have no objection if the Petition is allowed in terms of prayer clause (a)."

6. Since there is an amicable settlement between the parties and as Respondent No.2 does not wish to proceed with the prosecution, further proceedings arising out of First Information Report No.453 of 2016 would be an exercise in futility and an abuse of process of the Court. In that view of the matter, the petition deserves to be allowed.

7. 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 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 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. In the light of the foregoing paragraphs, in order to secure the ends of justice and to prevent further abuse of the process of said Court, we are inclined to allow the petition. Accordingly, the petition is allowed in terms of prayer clause (a), which reads as under:

“a. That by an Order of this Hon’ble Court the charge sheet being CC No.1026/PW/2017 pending in Ld. 73rd Metropolitan Magistrate Court at Vikhroli and C.R. No.453/2016 registered by the Pantnagar Police Station on 30th November, 2016 u/s.498 (A), 406 and 34 of the IPC against all Petitioners and accused mentioned therein be quashed and set aside on such terms and conditions as this Hon’ble Court deems fit and proper.”

9. Rule made absolute in the above terms. Writ Petition stands disposed off accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)