

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5375 OF 2018

1. Pushkaraj Shashikant Yellapurkar	}	
Age 47 years, Occupation – Businessman	}	
	}	
2. Shashikant Vyenkatesh Yellapurkar	}	
Age 77 years, Occupation – Businessman	}	
Both residing at A-58, Alankar Society,	}	
Opp. Sarvesh Hall, Tilak Road,	}	
Dombivali (East), Dist. Thane	}	.. Petitioners

Versus

1.The State of Maharashtra	}	
(Through Officer-in-charge	}	
Domivali Police Station, District-Thane)	}	
	}	
2. Smt.Madhura Pushkaraj Yellapurkar	}	
Age 43 years, Occupation- Housewife	}	
Residing at -C/o. Vikas Ghaisas,	}	
101, Vyankatesh Prasad, Pandurangwadi,	}	
Road No.1, Dombivali (East), Thane	}	.. Respondents

ALONGWITH

CRIMINAL WRIT PETITION NO.5244 OF 2017

1. Pushkaraj Shashikant Yellapurkar	}	
Age 45 years, Occupation – Business	}	
	}	
2. Shashikant Yellapurkar	}	
Age 76 years, Occupation – Business	}	
	}	
3. Madhuri Shashikant Yellapurkar	}	
Age 70 years, Occupation – Business	}	
Residing at A/58, Alankar Society,	}	
Opp. Sarvesh Hall, Tilak Road,	}	
Dombivali (East), Dist. Thane	}	.. Petitioners

Versus

M.M.Salgaonkar

1.The State of Maharashtra	}	
	}	
2. Smt.Madhura Pushkaraj Yellapurkar	}	
Age 42 years, Occupation- Housewife	}	
Residing at -C/o. Vikas Ghaisas,	}	
101, Vyankatesh Prasad, Pandurangwadi,	}	
Road No.1, Dombivali (East), Thane	}	.. Respondents

**ALONGWITH
CRIMINAL WRIT PETITION NO.5725 OF 2019**

1. Pushkaraj Shashikant Yellapurkar	}	
Age 47 years, Occupation – Businessman	}	
	}	
2. Shashikant Vyankatesh Yellapurkar	}	
Age 77 years, Occupation – Businessman	}	
Both residing at A/58, Alankar Society,	}	
Opp. Sarvesh Hall, Tilak Road,	}	
Dombivali (East), Dist. Thane	}	.. Petitioners

Versus

1.The State of Maharashtra	}	
(Through Officer-in-charge	}	
Dombivali Police Station, District-Thane)	}	
	}	
2. Smt.Madhura Pushkaraj Yellapurkar	}	
Age 43 years, Occupation- Housewife	}	
Residing at -C/o. Vikas Ghaisas,	}	
101, Vyankatesh Prasad, Pandurangwadi,	}	
Road No.1, Dombivali (East), Thane	}	.. Respondents

...

Mr.Vivek Yadav i/b Mr.Pankaj Purway for the Petitioners.
 Mr.Jay Lathigara i/b Nagi and Associates for Respondent No.2.
 Mr.S.R.Shinde, APP for the Respondent/State.

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

DATED : 12th JANUARY, 2021

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

1. The learned counsel appearing for the second respondent in all the three petitions had tendered across the Bar separate affidavit-in-reply of respondent No.2. The same are taken on record.

2. Since the parties to the three writ petitions are common, we think it appropriate to hear and dispose of all these three writ petitions by common judgment. It is informed by the counsel appearing for the petitioners that in Writ Petition No.5244 of 2017, charge-sheet has been filed.

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

4. The learned counsel appearing for the petitioners and the second respondent jointly submits that the controversy/discord between the parties is amicably settled. The learned counsel for respondent No.2 submits that in view of settlement and consent terms arrived at between the parties, respondent No.2 has no objection for quashing the FIR. Relying upon the contents of the said consent terms, the learned counsel for the petitioners and the second respondent jointly states that the impugned FIR may be quashed.

5. Petitioner No.1 and Respondent No.2 are present in the Court. They are identified by their respective advocates. On specific query to the second respondent, she states that it is her voluntary act, without any coercion to agree for settlement and sign consent terms. She further stated that all the three crimes registered bearing FIR

No.I-95 of 2018, C.R.No.I-299 of 2015 and proceedings in Regular Criminal Case No.516 of 2016 and FIR No.453 of 2018, which are impugned in the abovementioned three petitions may be quashed in view of the settlement arrived between the parties.

6. It is crystal clear that, the second respondent does not wish to prosecute/proceed with the allegations in three different crimes i.e. FIR bearing No.I-95 of 2018 registered at Dombivali Police Station for the offences punishable under Sections 420, 467, 409, 465, 468, 471 r/w 34 of IPC, C.R.No.I-299 of 2015 registered at Dombivali Police Station for the offences punishable under Sections 498(A), 323, 406 read with 34 of IPC and the proceedings in Regular Criminal Case No.516 of 2016 and C.R.No.453 of 2018 registered at Dombivali Police Station for the offences punishable under Sections 420, 467, 465, 468, 471, 120 read with 34 of IPC. Therefore, no fruitful purpose will be served by continuing the further investigation in the aforesaid crimes, since the second respondent is not going to support the allegations levelled in the aforesaid crimes and chances of the conviction of the petitioners would be remote and bleak.

7. Since the parties have amicably settled the dispute, further continuation of the proceedings of FIR No.I-95 of 2018, C.R.No.I-299 of 2015 and the proceedings in Regular Criminal Case No.516 of 2016 and FIR No.453 of 2018 will be an exercise in futility and abuse of the process of the Court.

8. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that, the criminal cases having

¹ 2012 (10) SCC 303

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 has also held that 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.

9. In light of discussion in foregoing paragraphs and keeping in view the Consent Terms, so also interaction with respondent No.2, in order to secure the ends of justice and prevent the abuse of the process of the Law Court, the writ petitions deserve to be allowed. Accordingly, rule made absolute in terms of prayer clause (b) in all the aforesaid three petitions.

10. The writ petitions stand disposed of accordingly.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)