

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

WRIT PETITION NO. 571 OF 2022

Omkar Satish Palav

Age: 34 years, Occu. Civil Engineer,

R/at. G-5, Ambedkar Nagar,

paradgaon, Parad, Mumbai- 400012.

...Petitioner

Versus

1. The State of Maharashtra

At instance of Vishnu Nagar Police Station,

Dombivli, Kalyan.

2. Smt. Dakshata Omkar Palav

Aged: 34 years, Occu. Housewife,

R/at. A/103, Mainai Saket CHS,

Korpar Road, Kopar Gaon,

Dombivali (East).

...Respondents

...

Mr. Nitin Gangal a/w Mr. Ashok D. Kadam for petitioner.

Ms. Prerna Shukla for Respondent No.2.

Smt. A. S. Pai, APP for Respondent/state.

Petitioner present in Court.

Respondent No.2 present in Court.

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**CORAM : S. S. SHINDE &
N. R. BORKAR, JJ.**

DATE : 25th FEBRUARY, 2022.

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

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

2. Mr. Nitin Gangal, learned counsel appearing for the petitioner and Ms. Prerna Shukla learned counsel appearing for the 2nd respondent

jointly submits that parties have amicably settled the dispute and to that effect consent terms have been arrived between the parties before the Civil Judge Senior Division, Kalyan in Marriage Petition No. 1532 of 2019. The said Court by order dated 08.12.2021 passed the decree and thereby marriage is dissolved.

3. It is jointly submitted that in view of the settlement arrived between the parties, impugned FIR may be quashed.

4. The 2nd respondent is present before the Court. She is identified by her advocate. She stated that it is her voluntary act to enter into such settlement/compromise and give consent for quashing the FIR. She further stated that she has filed the affidavit on her own free will and without any coercion.

5. In view of settlement arrived between the parties, and keeping in view in fact that the parties have filed consent terms before the Civil Judge Senior Division, Kalyan, as also affidavit filed before this Court by the 2nd respondent, we are of the opinion that further continuation of the investigation in Crime No. I-173 of 2020, dated 27.08.2019, registered with Vishnu Nagar Police Station, Dombivali, Kalyan for the offences punishable under Sections 498-A, 504, 506, 377, 323 r/w. 34 of the Indian Penal Code, 1860, would tantamount to the abuse of the process of the Court/law. , and

would be an exercise in futility. Since the respondent No.2 is not going to support the prosecution case, the chances of the conviction of the petitioner would be remote and bleak.

6. 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 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

7. In the light of discussion in foregoing paragraphs and in order to prevent the abuse of the process of Law/Court and to secure the ends of justice, in our view, it would be appropriate to allow the prayer clause of the Applicant for quashing and setting aside the impugned FIR. The application is allowed in terms of prayer clause (b), which read thus-

‘(b) This Hon’ble Court be pleased to issue a writ of certiorari or any other writ, order or direction in the nature of certiorari and be pleased to quash and set aside the impugned C.R. I-173 of 2019 dated 27.08.2019 lodged by Respondent No.2 against the Petitioner and his relatives, registered with Vishnu Nagar Police Station, Dombivali, Kalyan, for offences u/s. 498-A, 504, 506, 377, 322 r/w. 34 of Indian penal Code, 1860 by consent of Petitioner and Respondent No.2.’

8. Rule is made absolute to the above terms, Application stands disposed of accordingly.

(N. R. BORKAR, J.)

(S. S. SHINDE, J.)