

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

CRIMINAL APPLICATION NO. 132 OF 2020

1. Ajit Mahadev Tambde
Aged 35 Years, Occ- Self Employee.
2. Mr. Mahadev Narayan Tambde
Aged 61 years, Occ- Service.
3. Mr. Rajendra Mahadev Tambde
Aged 38 Years, Occ- Service.
4. Mrs. Meenakshi Mahadev Tambde
Aged 53 years, Occ- Homemaker.
5. Mrs. Neeta Rajendra Tambde
Aged 33 Years, Occ- Homemaker,
All R/o 87-A, Kilachand Chawl,
Nepeal Sea Road, Malabar Hill,
Mumbai- 400 006.

...APPLICANTS

Versus

1. The State of Maharashtra
2. Mrs. Radha Ajit Tambde
Aged 33 years, occ- Service
82, Jasmine Lodge, Nepean Sea Road,
Malbar Hill, Mumbai 400 006.

...RESPONDENTS

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Ms. Dhanashri Gadre a/w. Mr. Abhiraj Parab for Applicants.

Mr. K.V. Saste, APP for State.

Mrs. Radha Ajit Tambde Respondent No. 2 is present through video conferencing.

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**CORAM : S. S. SHINDE &
M.S. KARNIK, JJ.**

DATE : DECEMBER 16, 2020.

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

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

2. This application is filed with the following substantive prayer:-

a) That this Hon'ble Court be pleased to quash the proceedings u/s. 482 of the Code of Criminal Procedure by calling the records and proceedings of the C.C. No. 3004/PW/2016 arising out of FIR No. 62 of 2016 pending before the Learned Additional Chief Metropolitan Magistrate 40th Court and after going through the validity and legality of the same, quash and set aside the criminal proceedings.

3. Learned counsel appearing for the applicants and Respondent No. 2 jointly submits that the Applicant No. 1 and Respondent No. 2 have amicably settled the dispute. The Applicant No. 1 and Respondent No. 2 have already filed the consent terms before the Family Court, Bandra.

4. The parties are identified by their respective advocates. Respondent No. 2 is present. We have interacted with her through video conferencing. On specific query to her that whether it is her voluntary act to enter into the said settlement and consent for quashing the FIR, her reply was in the affirmative. In view of settlement arrived between the parties, no fruitful purpose will be served by continuing the proceedings arising out of FIR No. 62 of 2016, registered with Malbar Hill Police Station for the

offences punishable under Sections 406, 494, 498A read with 34 of IPC.

5. 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 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

6. In the light of discussion in foregoing paragraphs and keeping in view the bereavements in the application, affidavit filed by Respondent No. 2 and interaction with Respondent No. 2, in order to secure the ends of justice and prevent the abuse of the process of the Court, the application deserves to be allowed. Accordingly, rule made absolute in terms of prayer clause (a). The application stands disposed of.

7. The parties shall strictly abide by the consent terms and any breach of said consent terms would be seriously viewed.

8. This judgment will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(M. S. KARNIK, J.)

(S. S. SHINDE, J.)