

Bhogale

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

CRIMINAL WRIT PETITION NO. 426 OF 2018

Abhijit Prabhakar Jail

Aged-51 years, Occ-Business

Residing at-Flat no-201, Plot no-72,

Manabhavana, Mayur Colony,

Karve Road, Near-HDFC Bank,

Kothrud, Pune-411038.

.. Petitioner

V/s.

1. State of Maharashtra

(at the instance of Kothrud

Police Station, Pune)

2. Manisha Abhijit Jail

Aged-50 years, Residing

at-Flat no-202, Plot no-72,

Manabhavana, Mayur Colony,

Karve Road, Near-HDFC Bank,

Kothrud, Pune-411038

.. Respondents

Mr. Rajiv Patil, Senior Advocate I/b. Mr. Milind Sawant for the
Petitioner.

Mr. Nitin Padmakar Deshpande for Respondent No.2.

Mrs. Sangeeta D. Shinde, APP for the Respondent – State.

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

DATE : OCTOBER 20, 2020

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

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

2. Mr. Rajiv Patil, learned Senior Advocate appearing for the Petitioner and Mr. Nitin Deshpande, learned counsel appearing for Respondent No.2 jointly submits that the parties have amicably settled the dispute. Respondent No.2 has filed an affidavit before this Court. In the said affidavit, it is stated that the Respondent No.2 has no objection for quashing the First Information Report in C.R. No.63 of 2016 registered with the Kothrud Police Station on 21.02.2016 under Sections 498A, 406, 465, 468, 471 and 420 of the Indian Penal Code.

3. We have interacted with the Respondent No.2 through video conferencing. Respondent No.2 submitted that it is her voluntary act to enter into the consent terms for quashing the First Information Report in view of the settlement arrived at between the Petitioner and Respondent No.2.

4. Since the Respondent No.2 volunteered for settlement and prayed for quashing the First Information Report, she is not going to support the allegations made in the First Information Report.

5. Upon hearing learned counsel appearing for the parties and perusal of the affidavit filed by Respondent No.2, we are of the considered view that further continuation of the proceedings arising out of C.R. No.63 of 2016 and C.C. No.3335 of 2017 would be exercised in futility and abuse of the process of the 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 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

1 2012 (10) SCC 303

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 guidance 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 that view of the matter to secure the ends of justice and to prevent further abuse of the process of the Court, Writ Petition deserves to be allowed. Accordingly, the Writ Petition is allowed in terms of prayer clause **'b'** which reads as under :-

b) This Hon'ble High Court be pleased to quash and set aside Cr.no-63/2016 registered with Kothrod police Station u/s-498A, 406, 465, 468, 474 and 420 of I.P.C. and quash and set-aside case no-3335 of 2017 pending before J.M.F.C. court at Pune on the basis of complaint filed by Respondent no-2.

8. Consequently, the First Information Report and the chargesheet arising out of C.R. No.63 of 2016 stands quashed and set aside.

9. Rule made absolute in the above terms. Accordingly, the Writ Petition stands disposed of.

10. This judgment will be digitally signed by the Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this judgment.

(M.S.KARNIK, J.)

(S.S.SHINDE, J.)

Diksha
Rane

Digitally
signed by
Diksha Rane
Date:
2020.10.20
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