

Urmila Ingale

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

CRIMINAL APPLICATION NO. 237 OF 2020

Sajid Ismail Mansuri
Age 39 yrs. Occ : service
residing at : 14/16, Kazim Building,
Room No. 02, Mirza Ali Street,
Chinch Bunder, Mumbai 400 009. Applicant

Vs.

1. The State of Maharashtra
(Through Sir J.J. Marg Police Station)

2. Mrs. Alsamar Sajid Mansuri
Age 28 years, Occ. Housewife
Residing at : Room No. 103, First Floor,
Rafiya Manzil, Chindhi Galli, Aapaya Masjid,
Nal Baazar, Mumbai 400 003. Respondents

Mr.Satyaram R.Gaud, for the Applicant.
Ms.Shikhani Shah, for Respondent No.2.
Mr.S.R.Shinde, APP for the Respondent – State.
Mrs.Alsamar Sajid Mansuri – Respondent No.2 present in Court.

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

DATE : 07th DECEMBER, 2020

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

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

2. This Application is filed with the following substantive prayers :

“(b) This Hon’ble Court may be pleased to quash and set aside the criminal proceeding bearing its C.C. No. 264/PW/2019 arising out of First Information Report bearing its C.R. No. 208 of 2018 lodged with Sir J.J. Marg Police Station dated 16.11.2018 for an offence punishable u/s 324, 323, 504, 506(2) of IPC against the Applicant above-named, presently pending before 69th Court of Ld. Metropolitan Magistrate, Mazgaon (Sewri), Mumbai.

(c) This Hon’ble further be pleased to discharge the above-named present Applicant from criminal proceeding bearing its C.C. No. 264/PW/2019, pending before 69th Court of Ld. Metropolitan Magistrate, Mazgaon (Sewri), Mumbai.

(d) That during the pendency of present Application before this Hon’ble Court, further proceeding in C.C. No.264/PW/2019 pending before 69th Court of Ld. Metropolitan Magistrate, Mazgan (Sewri), Mumbai may kindly be stayed.”

3. Learned Counsel appearing for the applicant and 2nd respondent submit that applicant and 2nd respondent have amicably settled the dispute and to that effect affidavit is filed by the 2nd respondent.

4. 2nd respondent is present before this Court. On a specific query to 2nd respondent whether amicable settlement is

under coercion or it is with her free will, her reply was that it is her voluntary act to enter into such settlement and consent for quashing the impugned FIR.

5. Since the entire controversy arises out of the matrimonial discord, learned APP submits to the orders of this Court.

6. 2nd respondent in her affidavit from paragraphs 3 to 8 stated thus :

“3. I say that Applicant is my ex-husband, as we have executed Talaqnama on 04.02.2020 on ground of mutual understanding, due to intervention of our respective senior family and society members by giving a final end to the our matrimonial dispute. I say that we both are residing separately since last several years and Applicant has performed his second marriage and residing with his second wife only.

4. I say that spousal discord arose between me and Applicant above-named have been settled amicably, therefore now I am willing to settle my grievance with the Applicant by accepting the request made by the Applicant to withdraw my criminal complaint which is pending before 69th Court of Ld. Metropolitan Magistrate at Mazgaon (Sewri), Mumbai bearing its C.C. No. 264/PW/2019 arising out of its C.R. No. 208 of 2018 registered with Sir J.J. Marg Police Station for an offence punishable u/s 324, 323, 504, 506(2) of IPC.

5. I say that in view of settled terms, Applicant No.1 (ex-husband) has agreed to give me the room premises where presently I am residing i.e. Room no. 103, 1st floor, Rafiya Manzil, Chindhi Galli, Aapaya Masjid, Null Baazar, Mumbai 400003.

6. I say that in order to settle the dispute between me and Applicants now I am not willing to lead any evidence whether oral

or documentary either before Police Machinery or before Court of Law in the present subject crime against the Applicant/Accused in view of amicably settlement and thereby consenting to allow the prayer made in the quashing Application.

7. I hereby record my No-Objection for allowing the application preferred by the above-named Applicant thereby seeking prayer of quashing of C.C. No. 264/PW/2019 arising out its C.R. No. 208 of 2018 registered with Sir J.J. Marg Police Station for an offence punishable u/s 324, 323, 504, 506(2) of IPC.

8. I say that I am giving my free consent for quashing of above referred criminal proceeding with my conscious mind, free will and without any sort of pressure, coercion, fraud applied on me by any person(s). Furthermore I am also aware about the effect of the present affidavit-in-reply, more specifically the criminal proceeding bearing C.C. No. 264/PW/2019 pending before 69th Court of Ld. Metropolitan Magistrate at Mazgaon (Sewri), Mumbai may get quashed and all the above-named Applicant may get discharged/acquit from such criminal proceeding, for which I am recording my free consent."

7. Since the parties have amicably settled the dispute and it is a voluntary act of the 2nd respondent to enter into such settlement, continuation of the further proceedings of C.C. No. 264/PW/2019 would be an exercise in futility and wastage of the valuable time of the investigation machinery and that of any Court.

8. 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,

¹ 2012 (10) SCC 303

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 guidance 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 the light of the discussion in the foregoing paragraphs, to secure the ends of the justice and to prevent the abuse of the process of the Court, the Application deserves to be allowed. Accordingly, the proceedings C.C. No. 264/PW/2019 arising out of C.R. No. 208 of 2018 registered with Sir J.J. Marg Police Station for offence punishable u/s 324, 323, 504, 506(2) of

IPC is quashed and set aside.

10. Rule is made absolute in the above terms.
Application stands disposed of accordingly.

11. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

(M.S.KARNIK, J.)

(S.S.SHINDE, J.)

Urmila
P.
Ingle

Digitally
signed by
Urmila P. Ingle
Date:
2020.12.11
11:36:24
+0530