

Bhogale

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

CRIMINAL APPLICATION NO. 410 OF 2020

1. Santosh Bajirao Thorat
Aged : 36 yrs, Occupation : Service
Presently Residing at:718,
Old San Fransisco Road
Building 6, Apt 157,
Sunnyvale, CA 94086, USA.
& Permanent Resident of 57,
Vitthal Dev Sahakari Gruh Nirman Society,
House no.34, Malkapur, Taluka Karad,
District Satara 443101, Maharashtra
2. Mrs. Mangal Bajirao Thorat
Aged : 62 yrs Occ : Retired,
Permanent Resident of 57,
Vitthal Dev Sahakari Gruh Nirman Society,
House no.34, Malkapur, Taluka Karad,
District Satara 443101, Maharashtra
3. Mr. Sachin Bajirao Thorat
Aged : 40 yrs Occ : Service
Permanent Resident of 57,
Vitthal Dev Sahakari Gruh Nirman Society,
House no.34, Malkapur, Taluka Karad,
District Satara 443101, Maharashtra .. Applicants

V/s.

1. The State of Maharashtra
(Through Sinhgad Road Police Station, Pune)
2. Mrs. Pranali Santosh Thorat
Previously known as Ms. Pranali Chandrakant Suryawanshi
Aged 32 Years, Occupation:Service,
Residing at: A-102, Oasis City, Survey no.32,
Near Vetambuwa Chowk, Narhe,
Pune 411041. .. Respondents

Mr. Rohan Sawant for the Applicants.
Mr. J.P. Yagnik, APP for the Respondent – State.
Ms. Manasi Prakash Todankar for the Respondent No.2.
Mrs. Mangal Bajirao Thorat, Respondent No.2 present through video conference.

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

DATE : SEPTEMBER 15, 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. This application under Section 482 of Code of Criminal Procedure is filed praying therein to quash the criminal proceedings in R.C.C. No.4496/2018 in terms of prayer clause (a). As far as prayer clause (b) and (c) are concerned, learned counsel appearing for the Applicants submits that the said prayers are under consideration before concerned Court.

3. Learned counsel appearing for the Applicants and Respondent No.2 jointly submits that the parties have amicably settle the dispute. Respondent No.2 has filed the affidavit before this Court. The consent terms are also filed before the Family Court. Learned counsel for the Applicants invites our attention to the consent terms and also averments made in the affidavit filed by the Respondent No.2 in this proceeding.

4. Respondent No.2 is present. On specific query put to her as to whether she has entered into settlement without any coercion and voluntarily, she states that it is her voluntary act to

enter into settlement and the affidavit filed in the present proceedings is without any coercion. She stated that in view of the settlement arrived at between the Applicants and her, she has no objection to quash the proceedings in R.C.C. No.4496/2018.

5. Learned counsel appearing for the Applicants submits that the Applicants will strictly abide by the consent terms so also the terms of the settlement and there will be no breach of any such settlement terms mentioned in the consent terms. Learned counsel, on instructions, submits that Rs.10 Lakhs have already been deposited by Applicants in the Family Court, and the balance amount is ready with the Applicants.

6. It appears that there was matrimonial dispute and out of which the FIR is filed and subsequently after investigation chargesheet has been filed.

7. Mr. Yagnik, learned APP submitted that the Applicants did not cooperate for the investigation.

8. Since the Applicants and Respondent No.2 have filed the consent terms before the Family Court and Respondent No.2 has filed the affidavit before this Court stating therein that it is her voluntary act to enter into such settlement and she has no objection for quashing the criminal proceedings in R.C.C. No.4496/2018, further continuation of the proceedings in R.C.C. No.4496/2018 arising out of the CR No.305/2018 would be an exercise in futility and abuse of the process of the Court.

9. 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 guidance engrafted in such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

10. Keeping in view of the law laid down by the Supreme Court in the **Giansingh** (supra), we are inclined to allow the application to secure ends of justice and to prevent further abuse of the process of the Court. The application is allowed subject to deposit of Rs.50,000/- by the Applicants within a period of four weeks from today in the Police Welfare Fund, Axis Bank Ltd., Worli, Mumbai (MH), Mumbai 400025, Account No.914010029005759, IFSC Code UTIB0000060. This order will take effect only on

1 2012 (10) SCC 303

deposit of this amount. Accordingly, the application is allowed in terms of prayer clause 'a' which reads as under :-

a) That this Hon'ble Court may be pleased to quash and set aside the Criminal proceedings in R.C.C. No.4496/2018 pending before the Ld Judicial Magistrate First Class, Pune arising out of FIR vide C.R. No.305/2018 for offences punishable U/s 498A, 323, 504, 506, 507 r/w 34 Indian Penal Code registered with Sinhgad Road Police Station, Pune, against the Applicants on such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.

11. Rule made absolute in terms of prayer clause 'a' Accordingly, the Criminal Application stands disposed of.

12. 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
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Ingle
Digitally
signed by
Urmila P.
Ingle
Date:
2020.09.15
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+0530