

Urmila Ingale

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

CRIMINAL APPLICATION NO. 486 OF 2020

Adnan Mohammad Idris Qureshi
Aged : 19 years, Occ: Student ;
Residing at 64 EBY Castle, 3rd floor,
Room No. 27, B.B.Jan Street,
Mohammed Ali Road,
Mandvi B.P. Lane, Mumbai 400 003.

... Applicant

Vs.

1. The State of Maharashtra
(At the instance of Byculla Police Station,
C.R.No. 14 of 2020)

2. Mohammed Mustafa Amjad Bakali
Aged : 16years, Occu : Student
(Through his father Amjed Bakali, Adult)
Both are residing at Sheriar Baug, C block,
2nd floor, Opp. J.J. Hospital, Dongri,
Mumbai Maharashtra 400009
Mumbai 400064

..... Respondents

Ms.Ayesha Keshodwala, for the Applicant.
Mr.S.R.Shinde, APP for the Respondent – State.

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

**RESERVED ON : 21st DECEMBER, 2020
PRONOUNCED ON : 22nd DECEMBER, 2020**

JUDGMENT : (PER M.S. KARNIK, J.)

Rule. Rule is made returnable forthwith. Heard finally with the consent of learned counsel appearing for the parties.:

2. This is an application filed under section 482 of the Code of Criminal Procedure for quashing of FIR bearing C.R. No.14 of 2020 dated 17/01/2020 lodged by respondent No.2 against the applicant registered with Byculla Police Station, Mumbai for the offences punishable under sections 379 and 411 of Indian Penal Code, 1860. The FIR is lodged on the allegation that on 09/01/2020 at around 3.30 p.m., informant- respondent No.2 along with his friend was sitting in the college canteen and he had kept his mobile phone, i.e. Iphone XR on the table. After some time respondent No.2 realised that his phone was not on the table and therefore, all his friends searched, but mobile was nowhere found. FIR dated 17/01/2020 came to be lodged. It is alleged that one Imran and the applicant committed crime. The applicant was arrested on 10/09/2020 and released on bail on 11/09/2020. The parties through their Counsel made a joint request for quashing of FIR as all disputes are amicably settled and they being college friends share a cordial relationship.

3. An affidavit has been filed by respondent No.2 -

informant stating that alleged incident is misjudged and he has been falsely implicated in the case and made a scapegoat. The applicant and the informant are college friends and they always share cordial relations and therefore does not wish to proceed with the matter. Respondent No.2 further stated that he found his phone and does not want to proceed with the matter and has given his unconditional consent to quash the FIR. As the applicant is a minor, an affidavit in reply filed on his behalf is also signed by his father and mother. The parties are identified by their Advocates.

4. 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 resolves 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

1 2012 (10) SCC 303

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.

5. We have interacted with the respondent No.2 and also gone through the contents of the affidavit filed on his behalf consenting for quashing of FIR. The applicant as well as respondent No.2 share cordial relations and are good friends. It has been stated by respondent No.2 that the applicant has been falsely implicated and now that he has found his phone back, he does not want to proceed with the criminal case. In the facts of this case considering that the dispute between the applicant and respondent No.2 have been amicably settled and further having regard to the stand taken by respondent No.2 that the applicant has been falsely implicated in the case and made a scapegoat, this is a fit case for quashing of FIR by consent. Having regard to

the stand taken by respondent No.2, possibility of conviction of applicant is very remote and bleak. In these circumstances, continuation of the criminal proceedings would tantamount to abuse of the process of any Court and therefore to secure the ends of justice, FIR deserves to be quashed. The petition is therefore allowed on the following terms.

i) FIR bearing C.R. No.14 of 2020 dated 17/01/2020 lodged by Respondent No.2 against the applicant registered at Byculla Police Station, Mumbai for the offences punishable under sections 379 and 411 of Indian Penal Code 1860 and consequent charge-sheet which has since been filed is quashed and set aside.

ii) Rule is made absolute. Writ Petition is disposed of.

(M.S.KARNIK, J.)

(S.S.SHINDE, J.)

Urmila
P. Ingle

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by Urmila P.
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2020.12.22
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