

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

CRIMINAL APPLICATION STAMP NO. 6078 OF 2020

1. Shome Nikhil Danani
Aged 42 Years,
Indian Inhabitant
Occupation- Business.
2. Nikil Jaisingh Danani
Aged 70 Years,
Indian Inhabitant,
Occupation- Business.
3. Roshan Nikhil Danani
Aged 69 Years,
Indian Inhabitant,
Occupation- Housewife
All residing at Steesha
3rd Floor, Mount Mary, Bandra
(West) Mumbai 400 050.
4. Mallika Chirag Setalvad
Aged 39 Years,
Indian Inhabitant,
Occupation- Service.
5. Chirag Harendra Setalvad
Aged 46 Years,
Indian Inhabitant,
Occupation- Serfice
Both residing at 31, Zeeniabad,
Little Gibbs Road, Malabar Hill
Mumbai 400 006.

..APPLICANTS

Versus

1. The State of Maharashtra
At the instance of Bandra Police Station
C.R. No. 318/2015.

2. Tanya Shome Danani
Alias Tanya Thomas Banon
Indian Inhabitant,
Age: 37 Years,
Occupation- Service,
Residing at Flat No. B2,
44 Amrita Shergill Marg,
New Delhi- 110003

...RESPONDENTS

Mr. Pradeep Bakhru i/b. Wadia Ghandy & Co. for Applicants.

Mr. J.P. Yagnik, APP for State.

Mr. Madhav Khurana for Respondent No. 2.

Mrs. Tanya Shome Danani 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 pass an order, direction and/or appropriate writ quashing and/or setting aside FIR No. 318 of 2015 dated 28th May 2015 registered by the Bandra Police Station, Mumbai and the Charge sheet dated 23rd June filed in C.C. No. 1204/PW/16 and all proceedings therein pending before the Ld. Metropolitan Magistrate, 12th Court, Bandra, West, Mumbai.

3. Learned counsel appearing for the applicants and Respondent No. 2 jointly submits that, the Applicant No. 1 and Respondent No. 2 have

entered into the amicable settlement and to that effect affidavit is filed. Learned counsel for Respondent No. 2 invites our attention of this Court to the deed of settlement and submits that the Respondent No. 2 has no objection for quashing the impugned FIR and charge sheet.

4. The parties have identified by their respective advocates. Respondent No. 2 is present. We have interacted with her through video conferencing. She stated that it is her voluntary act to enter into the deed of settlement and settle the dispute. She further stated that she has no objection for quashing the FIR and charge sheet.

5. Upon hearing the learned counsel appearing for the parties and upon perusal of deed of settlement, we are of the opinion that the further continuation of the proceedings arising out of FIR No. 318 of 2015 dated 28th May 2015 registered with Bandra Police Station, Mumbai and the charge sheet dated 23rd June 2016 filed in CC No. 1204/PW/16, will be an exercise in futility and abuse of the process of the Court.

6. Since the deed of settlement is part of the present proceedings, we do not deem it appropriate to reproduce the terms of said deed of settlement. Suffice it to say that the parties have settled the dispute and the

informant has no objection for quashing the FIR and charge sheet.

7. 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

8. In the light of discussion in foregoing paragraphs and keeping in view the deed of settlement, so also 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). Criminal application stands disposed of .

9. Parties shall strictly abide by the terms of settlement which are incorporated in the deed of settlement and any breach of said terms would be seriously viewed.

10. 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.)