

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4005 OF 2019

Shri. Bhibhash Mukharjee and Anr.

...Petitioners

Versus

The State of Maharashtra and Ors.

...Respondents

Mr. Kishore Gaikwad for the Petitioners.

Mr. Darshit Jain for Respondent No. 2.

Mr. F.R. Shaikh, APP for Respondent – State.

CORAM : S. S. SHINDE &
V. G. BISHT, JJ.

DATE : 17th MARCH, 2020

PER COURT :

1. Learned counsel appearing for the Petitioners prays for leave to amend so as to enable him to incorporate prayer and annex the charge-sheet.

Leave granted. Amendment to be carried out forthwith.

2. **Rule.** On Rule Mr. Darshit Jain, waive service for Respondent No. 2 and learned APP Mr. F.R. Shaikh waive service for Respondent – State. Heard with the consent learned counsels appearing for the parties.

3. Pursuant to the notices issued to the Respondents, second Respondent has filed the affidavit. Second Respondent is present before this Court. He is identified by the Advocate appearing for him. On specific query to him, he states that it is his voluntary act without any coercion and undue influence to enter into settlement/compromise. He has no objection for quashing the FIR bearing C.R. No. 73/18 registered with Versova Police Station for the offence punishable under Sections 420, 406 read with 34 and 120B of the Indian Penal Code and charge sheet bearing PW/4400429/2020 of Versova Police Station.

4. We have carefully perused the averments in the affidavit filed by the second Respondent. The entire dispute has civil flavour. Since the parties have arrived at consent terms and second Respondent did not wish to pursue the proceedings arising out of FIR bearing C.R. No. 73/18 registered with Versova Police Station for the offence punishable under Sections 420, 406 read with 34 and 120B of the Indian Penal Code and charge sheet bearing PW/4400429/2020 of Versova Police Station, continuation of the aforesaid proceedings would be exercise in futility and would be abuse of the process of the Court.

5. The Supreme Court in the case of Giansingh v. State of Punjab

and Another¹ 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.

6. In the light of above and since the Petitioners and second Respondent have amicably settled the dispute and to that effect affidavit of second Respondent is placed on record, we are inclined to allow this Writ

¹ 2012 (10) SCC 303

Petition in terms of prayer clause 'b' & 'b-1' which reads as under :-

b. That this Hon'ble Court be pleased to pass appropriate writ or direction calling for records and proceedings of the investigation papers concerning C.R. No. 73/18 of Versova Police Station.

b-1. That this Hon'ble Court be pleased to quash and set aside the chargesheet, PW/4400429/2020 at Versova Police Station.

7. Rule made absolute in terms of prayer clause 'b' & 'b-1'.

Accordingly Writ Petition stands disposed of.

8. Parties to act upon an authenticated copy of this order.

(V.G. BISHT, J.)

(S. S. SHINDE, J.)