

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

CRIMINAL APPLICATION NO.1302 OF 2019

Alauddin Zaiuddin Khan & Ors. ... Applicant.
V/s.
The State of Maharashtra & Ors. ... Respondents.

Mr.Mohammed Ahme i/b Sufian for the Applicant.
Mr.F.R.Shaikh APP for the Respondent-State.
Mr.Zoheb Shaikh i/b Mr.Abdul Shaikh for Respondent No.3.

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

DATE : 9TH MARCH, 2020

P.C.:

1. Learned counsel appearing for the applicant has tendered across bar a copy of the order below withdrawal application (Exhibit-9) filed by Mrs.Risalat Bano Allauddin Khan, applicant in C.C.No.74/DV/2019 and a copy of the order below Exhibit-1. The same is taken on record and marked "X" for identification.
2. Learned counsel appearing for the applicant tendered across bar copies of the Aadhar Card of the applicant and respondent no.3. The same are taken on record and marked "X-1" and "X-2".
3. Rule. Rule made returnable forthwith.
4. Heard with consent of the parties.
5. This application under section 482 of the Code of Criminal Procedure is filed pre-hearing for quashing of C.R. No.154/2019 for offence registered under Section 498(A), 323, 504, 506 read with 34 of Indian Penal Code.

6. Learned counsel appearing for the applicant and respondent no.3 submits that during pendency of present application, the applicants and respondent no.3 have amicably settled the dispute. It is submitted that respondent no.3 applied for withdrawal of C.C.No.74/DV/2019 before the Metropolitan Magistrate, 66th Court, Andheri, Mumbai and accordingly, the learned Magistrate has allowed the said application and the said proceedings are disposed of as withdrawn.

7. Respondent No.3 has filed an affidavit on 29th August, 2019. In the said affidavit it is stated that respondent no.3 and petitioners have amicably settled the dispute and respondent no.3 will withdraw D.V.Application No.74/DV/2019 which was pending at the relevant time before the Court of Metropolitan Magistrate, 66th Court, Andheri, Mumbai. As already observed the said proceedings have been disposed of by learned Metropolitan Magistrate in view of settlement arrived at between the parties.

8. The parties are present before this Court. The advocates appearing for respective parties have identified the parties.

9. Since the petitioners and respondent no.3 have amicably settled the dispute and to that effect an affidavit is filed by respondent no.3, in our opinion, no fruitful purpose will be served by continuing the present proceedings.

10. 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

¹ 2012 (10) SCC 303

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.

11. In the present case, respondent no.3 has already withdrawn proceedings instituted by her before the Metropolitan Magistrate, 66th Court, Andheri, Mumbai and she has made statement in the affidavit that in view of amicable settlement she does not wish to pursue an allegations made in C.R.No.154/2019 for offence registered under sections 498(A), 323, 504, 506 read with 34 of Indian Penal Code.

12. Keeping in view an exposition of law in *Gian Singh vs. State of Punjab and Anr.* (supra) we are of the opinion

that further continuation of investigation and proceedings based upon Crime No.154/2019, would be exercise in futility and abuse of the process of law. In that view of the matter, the petition is allowed in terms of prayer clause (b) which reads as under :

“(b) Pending the hearing and final disposal of this Petition, this Hon’ble Court may grant stay of the further proceedings of C.R.No.154/2019 pending with Sakinaka police station.”

13. Rule is made absolute on above terms and, accordingly, the petition stands disposed of.

14. Parties to act upon authenticated copy of this order.

(V.G. BISHT, J.)

(S.S.SHINDE, J.)