

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 1328 OF 2019**

Sameer Datta Kadam and Ors. ... Applicants
Versus
Mrs. Supriya Sameer Kadam and Anr. ... Respondents

Mr. Rajesh G. Singh i/b Ms. Nidhi Singh, for the Applicants.

Mrs. Anjali P. Yajurvedi, for Respondent No.1.

Mr. F.R. Shaikh, APP for the State.

Mr. Arvind Jagdale, PSI, Khar Police Station present.

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

DATE : 16th March, 2020.

JUDGMENT (PER: S.S.SHINDE, J.)

Rule. Rule made returnable forthwith. The application is taken up for final hearing with the consent of learned counsel appearing for the parties; and heard.

2 Pursuant to private notice served upon respondents, Advocate Mrs. Anjali P. Yajurvedi appeared for first respondent and learned APP caused appearance for second respondent.

3 This application is filed with following substantive prayer clause (a), which reads thus,

“(a) That this Hon’ble Court be pleased to quash and set aside charge-sheet arising out of FIR No. 296 of 2015 dated 03/07/2015 (Exhibit A) registered with

the Khar Police Station pending on the file before the
Ld. Addl. Chief Metropolitan Magistrate, 9th Court,
Bandra, Mumbai in C.C. No. 996/PW/2018.”

4 The learned Counsel appearing for first respondent has
tendered across the bar a copy of affidavit dated 30th November, 2019.
The same is taken on record and marked ‘X’ for identification. It is
stated in the said affidavit that the first respondent has no grievance
against any of the applicants. Keeping the larger interest of the family
of the applicants, the first respondent has decided to withdraw the
complaint filed by her against the applicants. It is further stated that
the first respondent has no objection to quash and set aside the charge-
sheet arising out of C.R.No.296 of 2015, dated 03/07/2015 registered
with Khar Police Station for the offences under Sections 498A, 494,
497, 323, 504, 506(2) r/w 34 of the Indian Penal Code.

5 It appears that parties have amicably settled their dispute
before the Family Court, Bandra, Mumbai and to that effect there is a
reference in para 3 of the Affidavit that consent terms dated
04/05/2019 signed by both the parties have been filed in the said
Court.

6 The parties are identified by the learned counsel appearing
for the respective parties.

7 The dispute between the parties arose out of the
matrimonial discord and now applicants and first respondent have
settled the dispute. The further contention of proceedings arising out of

FIR bearing CR No. 296 of 2015 corresponding to C.C. No. 996/PW/2018 pending before the Addl. Chief Metropolitan Magistrate, 9th Court, Bandra, Mumbai, would be exercised in futility and wastage of time since the first respondent is not going to support the allegations made against the applicant.

8 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.

9 In the light of discussion herein-above and in order to

1 2012 (10) SCC 303

secure ends of justice and to prevent abuse of the process of the Court, we are inclined to allow the application in terms of prayer clause (a). Rule made absolute on above terms. Application is allowed to above extent and stands disposed of accordingly.

10 Parties to act upon the authenticated copy of this order.

(V. G. BISHT)

(S. S. SHINDE)