

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1764 OF 2019

Mrs. Nazia Sayyed and Anr.

...Applicants

**Versus**

The State of Maharashtra and Ors.

...Respondents

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Mr. Yusuf S. Mithi for the Applicants.

Mr. Vaibhav Shah i/by Mr. Abhay Dakne for Respondent No. 2.

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

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

DATE : 17<sup>th</sup> MARCH, 2020

PER COURT :

1. Learned counsel appearing for the Applicants have tendered across the bar affidavit of Applicant No. 2 dated 16<sup>th</sup> March, 2020. Same is taken on record and marked 'X' for identification.

2. **Rule.** On Rule Mr. Vaibhav Shah 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 affidavit dated 23<sup>rd</sup> November, 2019. It is stated in the affidavit that the applicants and second Respondent have settled their dispute and differences mutually.

4. In affidavit of applicant no. 2 it is stated in paragraphs no. 5 and 6 thus:

5. *I state that in terms of settlement arrived between the parties in terms of Clause ii (a) & (b) the Applicant No. 2 abovenamed hereby agree to pay a sum of Rs. 2,50,000/- (Rupees Two Lakhs Fifty Thousand Only) to the Original Complainant / Respondent No. 2 MS. SHAZIA PESHIMAM by way of Demand Draft bearing No. 032116 dated 17/03/2020 drawn on HDFC Bank, Jogeshwari (w) in favour of Original Complainant / Respondent No. 2 MS. SHAZIA PESHIMAM towards the permanent maintenance of our child named Rayyan Sayyed aged about 4 years born out of the said wedlock on 28.09.2014.*
6. *I further state in case of any future contingency in connection with the upbringing and taking responsibility of the child is concerned, I undertake to the said responsibility of taking care and providing for the necessary amenities for my child till he attains the age of minority.*

5. The second Respondent is present in the Court. She is identified by advocate appearing for her. Applicants are also identified by the advocate appearing for them. Since the parties have arrived at amicable settlement and dispute arose out of matrimonial discord, and second Respondent does not wish to pursue the allegations in the first information report and further continuation of proceeding arising out of FIR bearing C.R. No. 543/2017 registered with Oshiwara Police Station on 24.12.2017 for offences punishable under Sections 498-A, 406, 504, 506, 323, read with Section 34 of the Indian Penal Code and chargesheet bearing C.C. No. 2794/PW/2018 along with Domestic Violence Case No. 296/DV/2018 both pending before the learned Railway Magistrate's Court, Andheri, would be an exercise in futility and wastage of time.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**<sup>1</sup> 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

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1 2012 (10) SCC 303

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.

7. In the light of above the and since the Petitioners and second Respondent have amicably settled the dispute and to that effect affidavit of Applicant no. 2 and second Respondent are placed on record, we are inclined to allow this Petition in terms of prayer clause 'a' & 'b', which reads as under :-

*a) To quash the FIR being C.R. No. 543/2017 registered by Oshiwara Police Station on 24.12.2017 for offences punishable u/s 498-A, 406, 504, 506, 323 r/w 34 of IPC against the Applicants.*

*b) To quash chargesheet being No. C.C. No. 2794/PW/2018  
alongwith Domestic Violence Case No. 296/DV/2018 both  
pending before the Learned Railway Magistrate's Court,  
Andheri*

8. Rule made absolute in terms of prayer clause 'a' & 'b'.

Accordingly, the Criminal Application stands disposed of.

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

(V.G. BISHT, J.)

(S. S. SHINDE, J.)