

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

CRIMINAL WRIT PETITION NO. 2561 OF 2021

1) Prashant Pandurang Patil,
Age : 46, Occ : Business, Residing at:
2033 E Ward, Akansha Apt, Flat No. F1,
Rajarampuri 9th Lane, Opp. Sakhdeo Hospital,
Karvir, Kolhapur, Maharashtra-410008.

2) Kedar Bandiwadekar
Age : 32, Business, Residing at :
790/12, Plot No.11, Punlik Shanta,
Sadan, Raygad Colony, Panchgaon,
R.K. Nagar, Karvir, Kolhapur,
Maharashtra-416013

... Petitioners

Versus

1. State of Maharashtra
Through Gandhi Nagar Police Station,
Kolhapur.

2. Shivaji Tukaram Bodke,
Aged about 47 years, Occ : Business,
Residing at : Daryache Vadgaon,
Karvir, Gandhi Nagar,
Kolhapur, Maharashtra.

....Respondents

Mr.Dilip H. Shukla i/b Yash Associates for petitioners.
Mr. V.B. Kondedeshmukh, APP for respondent No.1-State.
Mr.B.V. Salunkhe i/b Mr. Arif Bhat for respondent No.2.
Respondent No.2 present and interacted with the Court.

**CORAM : S. S. SHINDE &
N.J. JAMADAR, JJ.
DATE : 24th AUGUST 2021.**

JUDGMENT (PER N.J. JAMADAR, J.)

1. Rule. Rule made returnable forthwith and, with the consent of the learned counsels for the parties, heard finally.
2. This petition under Article 226 of the Constitution of India and section 482 of the Code of Criminal Procedure, 1973 ('the Code') is instituted to quash and set aside the F.I.R. No. 30/2020, registered with Gandhi Nagar Police Station, Ghatkopar, for the offences punishable under sections 387, 420 and 506 read with 34 of the Indian Penal Code, 1860 ('the Penal Code') and sections 39 and 45 of Maharashtra Money-Lending (Regulation) Act, 2014 at the instance of respondent No.2-Shivaji Tukaram Bodke, the first informant, on the basis of settlement arrived at between respondent No.2 and the petitioners.
3. The gravamen of indictment against the petitioners is that the petitioners and the co-accused Dr. Prakash Bandiwadekar had lent money to respondent No.2, in the course of illegal money lending business, usurped agricultural land of respondent No.2 by coercing him to execute the sale-deed and when the respondent No.2 demanded re-conveyance of the said land, the petitioners and the co-accused attempted to extort money and threatened him out of his life.

4. Mr. Shukla, the learned counsel for the petitioner and Mr. Salunkhe, the learned counsel for respondent No.2 make a joint statement that during the intervening period, the petitioners and respondent No.2 have amicably resolved the dispute. Pursuant thereto, the respondent No.2 has sworn an affidavit giving no objection for quashing the subject FIR.

5. The affidavit of the respondent No.2 is tendered in Court. The respondent No.2 appeared before the Court. He affirms that he has decided to amicably resolve the dispute with the petitioners out of his own volition. There is no coercion or duress. He has filed the affidavit voluntarily. He claimed that the FIR was lodged on account of misunderstanding. Paragraph Nos. 2 to 4 of the affidavit read as under :

"2 I say that due to personal misunderstandings between myself and petitioners, which grew more and more over the period of time, I lost my control and out of rage of anger and annoyance, lodged the FIR No. 0030 of 2020 by me at Gandhi Nagar Police Station. I say that after the lodging of the FIR and after lapse of some time, due to intervention of the elder members of the family and the friends "MISUNDERSTANDING" between myself and the petitioners stands resolved. I say that since the elder members of our family have intervened and have settled my dispute and therefore I have decided to bury the past, come together and start living peacefully in the village. I say that there is no pressure or coercion from any quarter on me to settle the above matter and which accordingly has been already settled out of Court.

3 I am aware that, the present petition is filed for quashing of FIR bearing C.R. No. 0030/2020 registered with Gandhi Nagar Police Station, Kolhapur and all the

proceedings arising out of said C.R. I say that, I do not want to pursue the said FIR and the criminal case arising out from the said FIR against the petitioners and I have no objection if the present petition is allowed and the above-referred FIR bearing C.R. No. 0030/2020 registered with Gandhi Nagar Police Station, Kolhapur is quashed and set aside against the present petitioners.

4 I say that the incident in question was purely a private matter and the offences alleged does not affect the society at large and therefore this Hon'ble Court may pass/grant the appropriate relief to the applicant as prayed for in the aforesaid petition for "quashing" of the FIR bearing No.0030/2020."

6. In the backdrop of the aforesaid submissions, statements and averments in the affidavit, we have perused the material on record. It appears that the respondent No.2 has resolved the dispute with co-accused Dr.Prakash Bandiwadekar and the proceedings qua the said accused came to be quashed by this Court in Writ Petition No. 719 of 2021 by judgment and order dated 17th February 2021. It seems that the parties have resolved the entire dispute. The genesis of the alleged offences was in the alleged transactions between the petitioners and respondents. The transaction appears to have predominatingly civil flavour. In view of the fact that the dispute between the petitioners and respondent No.2 is settled, it is very unlikely that the respondent No.2 would support the prosecution and it would end in conviction. Continuation of prosecution would serve no fruitful purpose expect putting

unnecessary burden on the criminal justice system.

7. A useful reference in this context can be made to the judgment of the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another***¹, wherein the Supreme Court has observed as under :

“61..... 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.”

8. The aforesaid pronouncement applies with equal force to the facts of the case at hand. The continuation of the prosecution would amount to an abuse of the process of the Court. The proceedings qua the co-accused has already been quashed. Resultantly, in order to secure the ends of justice and prevent the

1 2012 (10) SCC 303

abuse of the process of the Court, we are inclined to allow the petition.

9. Hence the following order:

: ORDER :

- (i) The petition stands allowed.
- (ii) FIR No. 30/2020, registered with Gandhi Nagar Police Station, Ghatkopar, for the offences punishable under sections 387, 420 and 506 read with 34 of the Penal Code and sections 39 and 45 of Maharashtra Money-Lending (Regulation) Act, 2014 and the consequent proceedings stand quashed and set aside qua the petitioners.

Rule made absolute in the aforesaid terms.

[N.J. JAMADAR, J.]

[S.S. SHINDE, J.]