

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.214 OF 2021

Mandira
Salgaonkar

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1. Raju Raya Kamath,	]	
Age : 33 Years, Occ : Service,	]	
Having address at Sai Apartment,	]	
B/10/18, Room No.2, Sector-3,	]	
C.B.D. Belapur, Navi Mumbai -400614	]	.. Petitioner

VERSUS

1. State of Maharashtra	]	
Through Vartak Nagar Police Station,	]	
Through Ld. Public Prosecutor	]	
	]	
2. Kamaljeet Hardevsingh Sahani	]	
Adult Indian Inhabitant, Age – 32	]	
Occupation -Service	]	
Residing : Room No.105,	]	
Ishwarti Puja Apts., Vartak Nagar,	]	
Near Shiv Sena Off.	]	
Thane (W)- 400606	]	.. Respondents

Mr.Mikhail Dey for the Petitioner.

Mrs.S.D.Shinde, APP for Respondent No.1/State.

Mr.B.J.Dubey for Respondent No.2.

Mrs.Kamaljeet H. Sahani-Respondent No.2 present in Court.

**CORAM : S.S.SHINDE &
MANISH PITALE, JJ.**

RESERVED ON : 27TH JANUARY, 2021
PRONOUNCED ON : 03RD FEBRUARY, 2021

JUDGMENT (PER MANISH PITALE, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. The petitioner approached this Court by way of the present writ petition, seeking quashing of C.R. No.I-29 of 2010 whereby offence was registered against the petitioner under Sections 448, 324, 309 and 506 of the Indian Penal Code read with Sections 371 and 135 of the Bombay Police Act.
3. It is stated in the petition itself that the petitioner and respondent No.2 (original complainant) were in a relationship for seven years before the incident and that due to a quarrel and a small fight between them, the incident took place at the residence of respondent No.2.
4. It is stated that the parties have resolved their differences and respondent No.2 desires to put an end to the said criminal proceeding. It is stated that it was initiated in the first place due to misunderstanding.
5. Respondent No.2 has also appeared before this Court. We interacted with her and found that, she genuinely does not wish to proceed further in the matter and that she has filed the affidavit on her own free will and without any coercion. In her affidavit, she has reiterated the stand taken on behalf of the petitioner. It is categorically stated in the affidavit that she unconditionally desires to withdraw the case.

6. The Supreme Court in the case of **Gian Singh 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 offences 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 has also held that 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.

7. Applying the said position of law and the material placed on record before this Court by the petitioner and respondent No.2, it becomes clear that respondent No.2 will not be supporting the allegations and that the chances of conviction of the petitioner are remote and bleak. Consequently, continuation of further proceedings in pursuance of the C.R. No.I-29 of 2010 would serve no purpose. The nature of complaint and allegations raised on

¹ 2012 (10) SCC 303

behalf of respondent No.2 appears to be more of a personal nature against the petitioner and since the differences between the petitioner and respondent No.2 have been resolved, applying the said position of law, the present writ petition deserves to be allowed.

8. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads as follows :

“a. That this Hon’ble Court be pleased to issue writ of certiorari or mandamus or any other writ, order or direction calling for the record and proceedings of C.R.No.I-29 of 2010 of Vartak Nagar Police Station registered u/s. 448, 324, 309, 506 of The IPC R/W. 371, 135 of The Bombay Police Act and upon examining the propriety, legality and correctness of the investigation conducted so far, be pleased to quash the said C.R. bearing No.I-29 of 2010 registered u/s.448, 324, 309, 506 of The IPC R/W. 371, 135 of The Bombay Police Act.”

9. The writ petition stands disposed of in above terms.

10. Accordingly, Rule is made absolute in the above terms.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)