

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

Amk

CRIMINAL APPLICATION NO. 45 OF 2021

Amish Indrajit Shah & Ors. .. Applicants
Vs.
The State of Maharashtra & Anr. .. Respondents

Ms. Vidhi Shah for the Applicants.
Ms. Poornima Mehta for Respondent No.2.
Respondent No.2 present in Court.
Mr. V. B. Kondedeshmukh, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 4th MARCH, 2021.

P. C. :

1. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the parties.

2. This Application is filed with the following substantive prayer

Clause (b):

(b) Quashing and setting aside the criminal FIR bearing no. 506/2018 u/s. 498(a), 406, 34 IPC of Borivali Police Station.

3. Learned Counsel appearing for the Applicant and 2nd Respondent submit that the parties have amicably settled the dispute and to that effect consent terms have been filed before the Family Court at Bandra, Mumbai. Copy of the said consent terms is placed on record.

4. 2nd Respondent has filed the affidavit. Paragraphs 2 to 5 of the said affidavit read as under:

2. I say that I am filing this Affidavit before this Hon'ble Court as I do not wish to prosecute the application further and I hereby give my No Objection for quashing of the case before this Hon'ble Court and also I have No Objection for an order of acquittal is passed in favour of all the above applicants.

3. I say that all my matrimonial matters have been resolved out of the court with the help of senior elder members of the families of both sides, and I have no grievances, disputes with my husband and his family members.

4. I say that both the parties have reached to an amicable settlement and I am not interested to pursue my case against the Applicants any further. I say that I have categorically stated in my Consent terms that I will withdraw all the cases which is filed by me against the Applicants from all the Courts throughout the country and further I have no complaints, claims in any manner and issues against the Applicants.

5. I say that I am making "AFFIDAVIT" out of my own free will and will abide by the terms and conditions of the consent terms and to cooperate in quashing, compounding of the case.

5. 2nd Respondent is present before this Court. We have interacted with her. She stated that it is her voluntary act to enter into the settlement and join the prayer of the Applicants for quashing the impugned FIR.

6. Since Respondent No. 2 does not wish to proceed with the allegations in the FIR, no fruitful purpose would be served further continuing the investigation in FIR No.506/2018 registered with Borivali Police Station for the offence punishable under Sections, 498-A, 406, 34 of the Indian Penal Code.

7. 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 resolves 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.

¹ 2012 (10) SCC 303

8. In the light of discussion in foregoing paragraphs in order to secure the ends of justice and prevent the abuse of the process of Court, the Application deserves to be allowed in terms of prayer Clause (b) which is reproduced above in paragraph 2.

9. Accordingly, the Criminal Application is allowed. Rule made absolute on above terms.

10. Parties shall strictly abide by the consent terms filed before the Family Court at Bandra, Mumbai.

11. Parties shall extend full cooperation for early decision in the Family Court at Bandra, Mumbai.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
M.
Kadam

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Arjun M.
Kadam
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