

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

CRIMINAL APPLICATION NO. 53 OF 2021

1. Manoj Hiralal Gupta
Age- 40 Years.
2. Hiralal Chedilal Gupta
Age- 60 Years.
3. Nagindevi Hiralal Gupta
Age- 56 Years.
4. Dilip Hiralal Gupta
Age- 38 Years.
All Adults, Indian Inhabitants,
residing at Room No. 49,
2nd Floor, Building No. 31,
R.P. Nagar, Kshetrapaleshwar CHS,
Matuna Labour Camp, Jasmine Mill
Road, Mumbai- 400 019.

...APPLICANTS

Versus

1. The State of Maharashtra
Senior Inspector of Police
Shahu Nagar Police Station,
District Mumbai.
2. Sangeeta Manoj Gupta
D/o. Balchandra Jaiswal
Sindhi Camp, Bhau Daji Road,
T/70, Room No. 17, Sion West,
Mumbai- 400 022.

...RESPONDENTS

...
Mr. Jamshed Ansari, Advocate for Applicant.
Mr. A.S. Patel, Advocate for Respondent No. 2.
Mr. J.P. Yagnik, APP for State.

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

**RESERVED ON : FEBRUARY 2, 2021.
PRONOUNCED ON: FEBRUARY 4, 2021.**

JUDGMENT [PER S.S. SHINDE, J.]:

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

2. This application takes an exception to the C.R. No. 58 of 2018, dated 28.02.2018, registered with Shahu Nagar Police Station, District Mumbai under section 498A, 406, 354, 323, 504, 34 of IPC read with section 3(1)(10) of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989. The applicants further prayed for quashing and setting aside the proceedings of Special Case SCST No. 100009/2018 and Special Case SCST No. 100004/2019 pending on the files of Additional District & Sessions Judge, Greater Mumbai.

3. Learned counsel appearing for applicants and Respondent No. 2 jointly submits that the applicants and Respondent No. 2 have amicably settled the dispute. The Respondent No. 2 has filed the affidavit and additional affidavit.

4. Respondent No. 2 is present in the Court. She stated that it is her voluntary act without any coercion to enter into the settlement and give consent for quashing the impugned FIR and proceedings.

5. It is stated in the affidavit that the applicants and Respondent No. 2 decided to take divorce with mutual consent and already the proceedings are instituted before the family court, Mumbai. In the additional affidavit it is stated that the 2nd respondent had no intention to make allegations which would attract the provisions of section 3(1)(10) of Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989, and said allegations made in the FIR are out of misunderstanding and the applicants had no intention to insult the 2nd respondent. In view of the averments made in the affidavit filed by the 2nd respondent it is abundantly clear that offence under section 3(1)(10) of Special Act are not disclosed.

6. Since the applicants and Respondent No. 2 have amicably settled the dispute, no fruitful purpose would be served by continuing the proceedings of Special Case SCST No. 100009/2018 and Special Case SCST No. 100004/2019 pending on the files of Additional District & Sessions Judge, Greater Mumbai arising out of C.R. No. 58 of 2018 registered with Shahu Nagar Police Station, Mumbai. The continuation of further proceedings arising out of C.R. No. 58 of 2018, would be an exercise in futility.

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 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. In the light of discussion of discussion in foregoing paragraphs, in order to secure the ends of justice and prevent the abuse of the process of

1 2012 (10) SCC 303

the Court, the application deserves to be allowed. Hence, the following order:-

ORDER

- A) The application is allowed.
- B) The proceedings of Special Case SCST No. 100009/2018 and Special Case SCST No. 100004/2019 pending on the files of Additional District & Sessions Judge, Greater Mumbai arising out of C.R. No. 58 of 2018 dated 28.02.2018 registered with Shahu Nagar Police Station, Mumbai, is hereby quashed and set aside.
- C) Rule made absolute to above extent. The application stands disposed of accordingly.
- D) The parties shall strictly abide by the consent terms and extend full co-operation to the Family Court for early disposal of the pending proceedings initiated before the concerned court.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)