

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

CRIMINAL APPLICATION NO. 136 OF 2021

Vishesh Surendranath Kambli
Aged 49 years, an Indian
Inhabitant, Occupation: Business
Resident of 471/C/12, Manu
Mahal, Kings Circle,
Mumbai 400 019.

...APPLICANT
(Original Accused)

Versus

1. The State of Maharashtra
At the instance of Matunga
Police Station.
2. Sangeeta Vishesh Kambli
Aged 49 years, an Indian
Inhabitant, Occupation- Housewife
Resident of 471/C/12, Manu
Mahal, Kings Circle,
Mumbai 400 019.

..RESPONDENTS

...
Mr. Prashant Badole for the applicant.

Mr. J P Yagnik, APP for State.

Ms. Heena Suvarnakar h/f. Advocate Usha Andewar for Respondent No. 2.

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

**RESERVED DATE : 22nd FEBRUARY, 2021.
PRONOUNCED ON: 25th FEBRUARY, 2021.**

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

. 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:-

(b) Criminal proceedings bearing C.C. No. 912/PW/2017 in the Court of Ld. Metropolitan Magistrate, 30th Court at Kurla, Mumbai arising out of F.I.R. no. 26 of 2017 under sections 498 (A) of Indian Penal Code, 1860 registered on 29th January 2017 with Matunga Police Station, Mumbai upon complaint filed by Smt. Sangeeta Vishesh Kambli may be quashed and set aside.

3. Learned counsel appearing for applicant and Respondent No. 2 submits that the parties have amicably settled the dispute and Respondent No. 2 has filed affidavit, joining the prayer of the applicant to quash the impugned FIR.

4. Affidavit filed by Respondent No. 2 is on record. It would be gainful to reproduce herein below paragraphs 3 to 8 of the affidavit, which read as under:-

3. Applicant/Accused is my husband. We were married on 08/03/1998 and are residing as husband and wife since then at the address mentioned in this criminal application.

We i.e. Applicant and Respondent No. 2 have one son, Aryan presently aged about 20 years. He is of marriageable age and engaged with a girl from

Mumbai. He is very much attached to both the parents.

4. I am presently aged 49 years having ailments, such as, High Blood Pressure, Hyper Tension, Diabetics, Osteoporosis, Mussel injury to the back etc. due to various personal reasons. I am a housewife and have no independent income to support my basic needs. Food and shelter is provided by Applicant/Accused.

Subsequent to registration of this case also I am continuously staying at the address mentioned in the criminal application as I have no other alternative accommodation. Meanwhile I have received witness summons from Hon'ble Magistrate's Court for recording my evidence.

5. Under the facts and circumstances stated hereinabove and the request from my son Aryan, Applicant and myself have mutually decided not to proceed with the criminal prosecution.

That we both have decided to live our rest of life peacefully as husband and wife are not desirous to continue this criminal case pending before the Ld. 30th Metropolitan Magistrate Court at Kurla, Mumbai.

6. That in view of our mutual settlement, I have decided not to pursue with the proceedings in C.C. No.

912/PW of 2017 pending before the Ld. Metropolitan Magistrate, 30th Court, Kurla, Mumbai arising out of F.I.R. No. 26/2017 registered at Matunga Police Station against the Applicant herein.

7. Under the facts as aforesaid, I have no objection if the F.I.R./C.R. No. 26 o 2017 for offence u/s 498 (A) of I.P.C. registered with Matunga Police Station, Mumbai and subsequent proceedings pending on the file of Ld. Metropolitan Magistrate, 30th Court, Kurla, Mumbai bearing C.C. No. 912/PW of 2017, wherein I am the Original First Informant, is withdrawn, as the dispute has been settled amicably between me and the Applicant.

8. No fruitful purpose will be served in continuing the criminal prosecution against the Applicant.

5. Respondent No. 2 was present before this Court. She stated that it is her voluntary act to enter into the settlement and joint the prayer of applicant for quashing the impugned FIR.

6. Since the parties have amicably settled the dispute and Respondent No. 2 joined the prayer of the applicant for quashing the impugned FIR, the further continuation of proceedings i.e. C.C. No. 912/PW/

2017 pending in the Court of learned Metropolitan Magistrate, 30th Court at Kurla, Mumbai arising out of F.I.R. No. 26 of 2017, would be an exercise in futility. Since the Respondent No. 2 is not going to support the allegations in the FIR, the chances of conviction of application would be remote and bleak.

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

1 2012 (10) SCC 303

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 in foregoing paragraphs, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause (b), which is reproduced in Paragraph No. 2 herein above. Rule made absolute to above extent. The application stands disposed of.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)