

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.491 OF 2021

1. **Raskin Pinakin Engineer**]
]
2. **Pinakin Ravindra Engineer**]
]
3. **Rashmi Pinakin Engineer,**]
All residing at: 701, Garden View,]
Somnath Lane, Near Holy Family]
Hospital, Bandra (W), Mumbai – 400]
050.] ... Petitioners

Versus

1. **The State of Maharashtra**]
At the instance of Kandivali Police]
Station CR No.129/2015.]
2. **Namrata Raskin Engineer,**]
Residing at, B/1202, Naman Tower,]
Behind Shopper Stop, S.V. Road,]
Kandivali (W), Mumbai – 400 067.]
] ... Respondents

...

Mr. Manoj S. Mhambrey for the Petitioners.

Ms. M.H. Mhatre, A.P.P. for respondent No.1-State.

Mr. Yogesh P. Gandhi with Ms. Riddhi Vadodaria for respondent No.2.

Respondent No.2 is present in the court.

...

**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**
DATED : 11TH MARCH, 2021.

ORAL JUDGEMENT :- [Per S.S. Shinde, J.]

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. Learned counsel appearing for the petitioners and respondent No.2 jointly submit that, the parties have amicably settled the dispute and to that effect, the consent terms are filed in the Family Court at Bandra, Mumbai.
3. Learned counsel appearing for respondent No.2 has tendered across the bar, an affidavit-in-reply filed by respondent No.2. The same is taken on record. Paragraph Nos.1 to 3 of the said affidavit reads as under:

“1. I am executing this Affidavit voluntarily with free will.

2. I say that the disputes that arose by and between the parties lead to the filing of CR No.129/2015 of the Kandivali Police Station, Mumbai and Case No.830/PW/2016 pending before Ld. MM 17th Court, Borivali, Mumbai. All difference and disputes between the parties have been satisfied and nothing survives in the matter.

3. I say that submit that in view of the said facts, it would be a waste of time and no useful purpose would be served if the said proceedings continue.

Hence, it is most humbly submitted that the FIR in CR No.129/2015 of the Kandivali Police Station, Mumbai and Case No.830/PW/2016 pending before Ld. MM 17th Court, Borivali, Mumbai be quashed.”

4. Respondent No.2 is present in the court. She has been identified by her counsel. We have interacted with her. She has stated that it is her voluntary act to enter into the settlement and join the prayer made by the petitioners to quash the FIR in CR No.129/2015 of the Kandivali Police Station, Mumbai and Case No.830/PW/2016 pending before the Metropolitan Magistrate 17th Court, Borivali, Mumbai.

5. The Supreme Court in the case of *Gian Singh v. State of Punjab & Anr.*¹ has held that the criminal cases having overwhelmingly and predominately 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.

¹ (2012) 10 SCC 303

6. Since the parties have amicably settled the dispute and respondent No.2 has joined the prayer of the petitioners to quash the FIR and the proceeding arising out of the said FIR, it is clear that respondent No.2 is not going to support the allegations made in the FIR and the Case No.830/PW/2016 pending before the Metropolitan Magistrate 17th Court, Borivali, Mumbai. We are, therefore, of the opinion that continuation of the further proceedings would be an exercise in futility.

7. In the light of discussion in foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse of the process of the concerned Court, the petition deserves to be allowed. Hence, the petition is allowed in terms of prayer clause (b) which reads as under:

“(b) That by issuing appropriate writ or direction the proceedings against the Petitioners in C.R. NO.129 of 2015 of the Kandivali Police and the consequent proceeding Numbered as Case No.830/PW/2016 pending in Metropolitan Magistrate 17th Court at Borivali, Mumbai be quashed and set aside.”

8. Rule made absolute in the above terms. The writ petition is disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)