

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.111 OF 2021

Swapnil Sampat Pawar @ Neel Pawar,]
 Residing at 802, Octa Crest,]
 Lokhandwala Township, Kandivali]
 (E), Mumbai – 400 101.] ... Applicant

Versus

1. Pooja Surendra Chopra,]
 Residing at 501, Oris Serinity,]
 Kanchpada Link Road, Malad]
 (West), Mumbai.]
2. The State of Maharashtra]
 through Malad Police Station.] Respondents

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Mr. Rohan R. Sonawane for the applicant.

Mr. Durgesh Jaiswal with Mr. Mukesh Gupta, Mr. Harshal Damania and Ms. Anita Pandey i/b Ms. Ajinkya Pokharkar for respondent No.1.

Ms. M.H. Mhatre, A.P.P. for respondent-State.

Respondent No.1 is present in the court.

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

DATED : 26TH FEBRUARY, 2021.

ORAL JUDGMENT:- [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 applicant and learned counsel appearing for respondent No.1 jointly submit that the parties have amicably settled the dispute. The dispute necessarily has a civil flavour. Learned counsel appearing for respondent No.1 has tendered across the bar the consent terms. The said consent terms are taken on record. Paragraph Nos.2 and 3 of the consent terms read as follows:

“2. Certain dispute arose between the parties abovenamed which lead to registration of FIR being C.R. No.897/2020 dated 14.12.2020 at Malad Police Station, Mumbai against the Applicant abovenamed.

3. The Applicant and Respondent No.1 with the help of mediation through mutual acquaintances came together and amicably settled the disputes. The parties have amicably as well as fully and finally settled their disputes on the following terms and conditions;

a.) The Applicant agrees to pay to the Respondent No.1 a sum of Rs.1,00,000/- (Rupees One Lac only) by way of demand draft drawn on IDBI Bank, Kandivali (E) branch dated 08.01.2021 bearing no.009532

*towards one time full and final settlement amount. The copy of the demand draft is annexed herewith as **EXHIBIT-"A"**.*

- b.) The Respondent No.1 hereby accepts Rs.1,00,000/- (Rupees One Lac only) as one time full and final settlement amount mentioned in para (a) above and further undertakes to accept the said amount unconditionally.*
- c.) The Respondent no.1 confirms that save and except the sum of Rs.1,00,000/- (Rupees One Lac Only), the Applicant is not bound to pay any further funds or provide any other service to the Respondent No.1 as and by way of settlement of their disputes. The Respondent no.1 confirms that upon receipt of sum of Rs.1,00,000/- (Rupees One Lac only) she shall not have any further or other claim against the Applicant of whatsoever nature.*
- d.) The Applicant agrees to pay the Goods & Services Tax (GST) as may be payable against the services provided to the Respondent no.1. The Applicant has paid Rs.2,50,020/- as GST on 22/01/2021 viz the GST portal in compliance of his obligation towards the Respondent No.1. The copy of invoice issued against payment of GST is annexed herewith and marked as **EXHIBIT-"B"**.*
- e.) The Respondent No.1 hereby withdraws all claims, demands, allegations, complaints made against the Applicant and further*

declares that she has no further claim or complaint against the Applicant. The Respondent No.1 also grant unconditional consent for withdrawal/quashing of C.R. No.897/2020 dated 14.12.2020 registered with Malad Police Station, Mumbai against the Applicant. It is further declared that the Respondent No.1 shall not file any further claim, suit, complaint against the Applicant pertaining to the transaction involved in C.R. No.897/2020 dated 14.12.2020 registered with Malad Police Station, Mumbai against the Applicant.

- f.) The Respondent No.1 agreed that she shall not raise any further dispute in future regarding quality of work done by Applicant or regarding furniture/articles delivered by Applicant. It is mutually agreed that Applicant or Respondent No.1 shall not post any material on media-social media making allegations/claims against each other. Parties agree to not bother each other in any manner in future.*
- g.) The Applicant and Respondent No.1 do hereby state on solemn affirmation that they are fully conversant with the contents of the aforesaid consent terms. The said consent terms are drawn on instructions from the Applicant and Respondent No.1 and they affirm the aforesaid consent terms to be true and correct.”*

3. A perusal of the aforesaid consent terms makes it abundantly clear that the parties have put an end to their dispute.

The applicant and respondent No.1 are present before the court. They have been identified by their respective lawyers. We have interacted with respondent No.1. Respondent No.1 has stated that it is her voluntary act to give consent for quashing the impugned FIR. Learned counsel appearing for the applicant has handed over a Demand Draft for Rs.1,00,000/- to learned counsel appearing for respondent No.1, who in turn, handed over the said Demand Draft to respondent No.1.

4. Since the parties have amicably settled the dispute and in view of the fact that respondent No.1 has joined the prayer of the applicant for quashing the impugned FIR, certainly she is not going to support the allegations made in the FIR and, therefore, continuation of further proceedings in C.R. No.897 of 2020 registered with Malad Police Station for offences punishable under Sections 420, 406, 409 of the Indian Penal Code, would amount to an abuse of process of court.

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

¹ (2012) 10 SCC 303

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.

6. Having regard to the amicable settlement arrived at between the parties and in view of the consent terms filed by the parties, we are of the opinion that the chance of conviction of the applicant is bleak and remote and, therefore, the continuation of further proceedings arising out of the said FIR would be an exercise in futility and would tantamount to abuse of process of the court.

7. In the light of the discussions in the foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse

of the process of the court, we are inclined to allow this application. Accordingly, the application is allowed in terms of prayer clause (b).

8. Rule is made absolute in the above terms.

9. The application stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)