

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.865 OF 2020

- | | | |
|--|---|-----------------------|
| 1. Dhanesh Kumar Saini |] | |
| Resident of Jhulelal Rani Sati Mandir, |] | |
| Ward No.12, Ratan Nagar, Churu, |] | |
| Rajasthan. |] | |
| |] | |
| 2. Lokesh Saini |] | |
| Resident of Ward No.5, Ghantel Churu, |] | |
| Rajasthan |] | |
| Both are now residing at Sinhgad Road, |] | |
| Pune |] | .. Petitioners |

VERSUS

- | | | |
|---|---|-----------------------|
| 1. The State of Maharashtra |] | |
| (At the instance of Sinhgad Road Police |] | |
| Station, Pune) |] | |
| (Notice to be served on APP, A.S.High |] | |
| Court, Bombay) |] | |
| |] | |
| 2. Tejaswi Ram Ghone |] | |
| Residing at Flat No.208, |] | |
| Snehashraddha Building, Near Maruti |] | |
| Temple, Dhayri, Pune |] | .. Respondents |

Mr.Rushikesh S. Kale for the Petitioners.

Mr.Manoj B. Bagal for Respondent No.2.

Respondent No.2 present.

Mr.Deepak Thakare, P.P. with Mr.S.R.Shinde, APP
for the Respondent No.1/State.

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

DATED : 02nd MARCH, 2021

ORAL JUDGMENT (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 petitioners and respondent No.2 have amicably settled the dispute. Petitioner No.1 has filed an undertaking wherein it is stated that the video recorded by him was not circulated to any one. Further more, he has already deleted the said video recorded by him. It is also stated that henceforth he will not indulge in such activities.
3. Learned counsel appearing for respondent No.2 has tendered across the bar, affidavit of respondent No.2. Same is taken on record. Paras 2 to 4 of the said affidavit read as under :-

“2. I further say that during the pendency of the above said proceedings, respectable persons from both the families requested both of us to settle the dispute amicably, after taking into consideration our future life. Both the parties immediately agreed and arrived at amicable settlement, after Petitioner No.1 assured that he has never circulated the said alleged video recording of us to anybody. After verifying the same and believing him, I agreed for amicable settlement to resolve the said dispute. Further I also agreed to appear in this Hon’ble Court and to co-operate in the proceedings for quashing of aforementioned F.I.R. lodged by me.

3. I say that the settlement between the parties is bonafide and free from any pressure or duress. In such circumstances, the Petitioners and Respondent No.2

approaches this Hon'ble Court with the present Petition for quashing of all further proceedings in C.R.No.690 of 2019 for offence punishable U/Sec.354(D), 506, 34 of Indian Penal Code, 1860 and Section 67(A) of Information Technology Act, 2000 registered with Sinhgad Road, Police Station, Pune. In the fact and circumstances and in the interest of justice, the above proceedings deserves to be quashed and set aside.

4. I say that I have not been pressurized or induced by anybody in any manner to settle the matter. The settlement between us is bonafide and free from any threat and inducement. I therefore say that I have no objection if the F.I.R. bearing No.690 of 2019 for offence punishable U/Sec.354(D), 506, 34 of Indian Penal Code, 1860 and Section 67(A) of Information Technology Act, 2000 registered with Sinhgad Road, Police Station, Pune.”

4. Respondent No.2 is present before this Court. She has stated that it is her voluntary act to enter into the settlement and join the prayer of the petitioners for quashing of the First Information Report (FIR). She has further stated that due to intervention of the family members from both the sides, dispute was amicably settled and keeping in view the future life, she has volunteered to enter into the settlement and pray for quashing of the impugned FIR. Parties are identified by the respective counsel appearing for them.

5. Since respondent No.2 does not wish to proceed with the allegations made in C.R.No.690 of 2019 for the offences punishable under Sections 354(D), 506 read with Section 34 of the Indian Penal Code and Section 67(A) of the Information Technology Act, 2000, registered with Sinhgad Road Police Station, Pune, continuation of further investigation would be an exercise in futility and would not result into conviction of the petitioners in view of the stand taken by respondent No.2.

6. The Hon'ble Supreme Court in the case of **Gian Singh 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 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.

7. In light of the discussion in the foregoing paragraphs, keeping in view the future life of petitioner No.1 and respondent No.2 and to secure the ends of justice, we are inclined to allow this petition. Accordingly, the writ petition is allowed in terms of prayer clause (b), which reads as under :-

¹ 2012 (10) SCC 303

“b. By issuing an appropriate Writ/Order/Direction, this Hon’ble Court be pleased to quash and set aside all proceedings in C.R.No.690 of 2019 for offence punishable U/Sec.354(D), 506, 34 of Indian Penal Code, 1860 and Section 67(A) of Information Technology Act, 2000 registered with Sinhgad Road, Police Station, Pune.”

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

(MANISH PITALE, J.)

(S.S.SHINDE, J.)