

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.302 OF 2020

Ruhi Zeeshan Theba	]	
Ms. Ruhi Rais Khan,	]	
Zoroastrian, Indian Inhabitan, R/At	]	
Plot No.11, Room No.1106, Bandra	]	
(East), Mumbai – 400 051.	]	... Applicant

Versus

1.	The State of Maharashtra	]	
	through Police Station Officer,	]	
	Police Station BKC, Mumbai.	]	
2.	Zeeshan Mh. Siddique Theba,	]	
	R/At Harmony Apt., Military	]	
	Road, 'B' Wing, 401, Andheri	]	
	(East), Mumbai – 400 059.	]	... Respondents

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Ms. Deepali A. Khatkhate for the applicant.

Mr. J.P. Yagnik, A.P.P. for respondent No.1 -State.

Ms. Hemakshi B. Gandhi for respondent No.1.

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

DATED : 12TH JANUARY, 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. This application is filed with the following substantive prayer:

“(a) Quash the FIR No.68 of 2018 dated 06/03/2018 filed with Police Station, BKC and which is pending before the Police Station at BKC, Mumbai.”

3. Learned counsel appearing for the applicant and Respondent No.2 jointly submit that, the applicants and Respondent No.2 have entered into an amicable settlement and to that effect an affidavit is filed by respondent No.2. In the said affidavit, she has stated that the discord between the applicant and respondent No.2 is solved amicably. The said affidavit is taken on record.

4. On 05/01/2021, respondent No.2 was present in the Court. She has stated that it is her voluntary act to enter into the settlement and settle the dispute. She has further stated that she has no objection for quashing the FIR.

5. Upon hearing the learned counsel appearing for the parties

and in view of the settlement between the parties, we are of the opinion that the further continuation of the proceedings arising out of FIR No.66 of 2018 dated 06/03/2018 registered with Bandra Kurla Complex Police Station, Mumbai will be an exercise in futility and an abuse of the process of the Court.

6. The Supreme Court in the case of *Giansingh 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

1 (2012) 10 SCC 303

such power viz.: (i) to secure the ends of justice, or (ii) to prevent abuse of the process of any court.

7. Since the applicant and respondent No.2 have amicably settled the dispute and respondent No.2 is not going to support the allegations in the FIR, the chance of conviction of the applicant is bleak and, therefore, 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.

8. 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 Court, the application deserves to be allowed. Accordingly, rule made absolute in terms of prayer clause (a). Criminal application stands disposed of.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)