

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 315 OF 2020

Mr.Ramanuj Vidyadhar Pathak and another. ... Applicants.

V/s.

The State of Maharashtra and others. ... Respondents.

Mr.Jagdish Mishra for the Applicants.

Ms.M.H.Mhatre, APP for the Respondent- State.

Mr.Suresh Upadhyay for Respondent No.3.

CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.

DATE : 25 November 2021.

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P.C. :

Heard the learned counsel for the Applicant, the learned counsel for Respondent No.3 and the learned APP for the State. Taken up for disposal by consent.

2. This application is filed for quashing of FIR No.397/2019 registered with R.C.F. Police Station, Mumbai for the offences punishable under sections 420, 465, 467, 468, 471 read with section 34 of the Indian Penal Code. The application is filed for quashing of FIR on the ground that Applicants and Respondent No.3 have settled their dispute and Respondent No.3 has given consent for quashing of FIR.

3. We have perused the contents of the FIR. The dispute is within the family and that Applicant Nos.1 and 2, the brother and sister-in-law of Respondent No.3. The allegations are that the electricity meter was changed in the name of Applicant No.2 even though the Applicants did not have right to do so and they created bogus documents. The learned counsel for the parties inform us that the FIR was out of a misunderstanding and the family members have resolved their dispute.

4. Respondent No.3 has also filed an affidavit of consent and the learned counsel who appears for Respondent No.3 reiterates the stand of Respondent No.3 taken in the affidavit. The Applicant Nos.1 and 2 have also filed additional affidavit that property dispute be settled with efforts of family members and friends. The FIR is a consequence of the family dispute which is now settled. This issue of electricity meter on one's name is based on a civil right and it is now informed that civil right has been settled by way of mutual understanding between the family members. Therefore, it cannot be said that the dispute has large scale repercussions on the society.

5. The Apex Court in the case of *Gian Singh v. The State Of Punjab*¹ has observed thus :-

“The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different

¹ (2012) 10 SCC 303

from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case

is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. In the light of the law laid down by the Apex Court in the case of *Gian Singh* wherein the Supreme Court has held that an FIR disclosing cognizable offence can be quashed by consent of parties, if it does not affect the society at large and is out of the family dispute. Once the family members have decided to end the dispute and achieve peace in the family and not to prosecute the FIR, keeping this criminal proceedings pending will amount to harassment to both the parties and impede this process.

7. Nothing adverse is shown to us by the learned APP as to why the law laid down in the case of *Gian Singh* should not be made applicable to the present case.

8. In the light thereof, application is allowed in terms of prayer clause (a) which reads thus:

(a) That the records and papers of FIR/Crime No.397 of 2019 registered with R.C.F. Police Station, Mumbai against the applications, be called for, and after examining the same, the said First Information Report being Exhibit “A” hereto may be quashed and set aside.

9. Order accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)