

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

WRIT PETITION NO. 1127 OF 2021

Rahul Ramesh Patil Petitioner

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Piyush R. Toshnival for Petitioner.
Mr. Vijay M. Adani for Respondent No.2
Mrs. S.D. Shinde, APP for State.

Respondent No. 2 present in Court.

**Coram : S.S. SHINDE AND
MANISH PITALE, JJ.**

Date : 1st APRIL, 2021

P.C.:

1. Rule. Rule made returnable forthwith with consent of the parties.

2. This petition is filed with following substantive prayers:

“a) This Hon’ble Court be pleased to quash and set aside the proceedings being FIR No.86 of 2020 dated 08.04.2020 registered with Colaba Police

Station for the offence under Section 420 of I.P.C.

- b) This Hon'ble Court be pleased to quash and set aside the 138 complaint filed by the Respondent No. 2 bearing No. MISC/ 2802815/2019 against the present Petitioner for dishonour of cheque of Rs.17 Lakhs before 28th Court at Esplanade Court, Mumbai.”

3. Learned counsel appearing for the Petitioner and 2nd Respondent jointly submits that the parties have amicably settled the dispute. The 2nd Respondent- Mr. Prem Govind Mani has filed the affidavit. Para 2 to 6 of the said affidavit reads as under :

“2. I say that the gist of the prosecution case is that the Petitioner had availed the services of the Respondent No.2 in booking the airline tickets and hotel accommodation and against the same failed to pay the amount of Rs.16,20,555/- to the Respondent No.2. Based on the allegations

which are detailed in the F.I.R., the impugned FIR came to be lodged on 8/4/2020.

3. I say that the Petitioner and I have amicably resolved our disputes and I am not desirous to proceed further with the aforesaid criminal proceedings.
4. I say that in view of what is stated herein above, I do not wish to proceed with the FIR No. 86 of 2020 dated 08.04.2020 registered with Colaba Police Station for the offence u/s 420 of I.P.C. against the Applicant.
5. I say that I have no grievances of whatsoever nature against the Petitioner.
6. I hereby give my consent and pray that the Hon'ble High Court of Judicature at Bombay be pleased to quash the F.I.R. No. 86 of 2020 dated 08.04.2020 registered with Colaba Police Station for the offence u/s 420 of I.P.C..

4. The 2nd Respondent is present before the Court. He stated that it is his voluntary act to enter into the settlement and join the prayer of the Petitioner to allow the petition in terms of prayer clauses (a) and (b).

5. Learned counsel appearing for the Petitioner has handed over Demand Draft of Rs.19,50,000/- to the learned counsel appearing for the 2nd Respondent inturn, learned counsel appearing for the 2nd Respondent handed over the said Demand Draft to the 2nd Respondent. The 2nd Respondent has verified the contents of the Demand Draft and stated that he has accepted the said Demand Draft as full and final settlement.

6. Since the parties have amicably settled the dispute and the 2nd Respondent volunteered to accede to prayer of the Petitioner to quash the F.I.R. and proceedings under Section 138 of Negotiable Instruments Act, pending before the Court of 28th Court at Esplanade Court, Mumbai, no fruitful purpose would be served by continuing the investigation and the proceedings initiated by the 2nd Respondent under

Section 138 of Negotiable Instruments Act. The further continuation of the investigation and the proceedings would tantamount to the abuse of the process of the law/Court, since the chances of conviction of the accused i.e. the Petitioner would be bleak and remote.

7. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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 offence 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

¹ 2012 (10) SCC 303

settlement and compromise with the victim. It is further held that, as 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.

8. In the light of discussion in foregoing paragraphs in order to secure the ends of justice, the petition deserves to be allowed in terms of prayer clauses (a) and (b), which are reproduced hereinabove.

9. Accordingly, rule made absolute in terms of prayer clauses (a) and (b). The petition is allowed to above extent and same stands disposed of accordingly

(MANISH PITALE, J.)

(S.S. SHINDE, J.)