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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.204 OF 2021

Vaibhav Vishnu Birmole]
Residing at Room No.7, Ganesh Mitra]
Mandal, Ganesh Niwas, Devipada, Near]
Shankar Mandir, Borivali (East),]
Mumbai- 400 066] .. Applicant

VERSUS

1. **The State of Maharashtra**]
through Kasturba Marg Police Station,]
Borivali (East), Mumbai – 400 066]
]
2. **Mrs.Sheetal @ Sunita Sanjay Raul**]
Maurya Niwas Chawl, Near]
Omkareshwar Mandir, Devipada,]
Borivali (East), Mumbai -400066]
]
3. **Mr.Vishal Keshav Chavan**]
Room No.6, Ganesh Mitra Mandal,]
Ganesh Niwas, Devipada, Borivali]
(East), Mumbai - 400066] .. Respondents

Mr.Vaibhav V. Birmole- Applicant in person.

Mrs.Racheeta Dhuru- Appointed Advocate for
Respondent No.2.

Respondent No.2 present.

Mrs.S.D.Shinde, A.P.P. for Respondent No.1/State.

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

DATED : 01st 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. The applicant appears in person. By order dated 25th February, 2021, Advocate Racheeta Dhuru was appointed to represent respondent No.2. Today, learned counsel appearing for respondent No.2, has tendered across the bar, affidavit of respondent No.2. Same is taken on record.

3. It is submitted by the applicant and learned counsel appearing for respondent No.2 that the applicant and respondent No.2 have amicably settled the dispute. It is stated in the affidavit that respondent No.2 has no objection for quashing the First Information Report (FIR) and C.C.No.450/PW/2021 pending before the Additional Metropolitan Magistrate, 68th Court, Borivali, Mumbai, qua the applicant. It is stated in the affidavit that the family of the applicant and respondent No.2 are residing in the same locality and in order to maintain peace, respondent No.2 and the applicant have decided to settle the dispute. In view of the said settlement, respondent No.2 has decided to withdraw all allegations against the applicant- Vaibhav Vishnu Birmole.

4. Respondent No.2 is present before this Court. She has been identified by her counsel. She has stated that it is her voluntary act to enter into such settlement. There is no force or coercion and she has entered into such settlement with her free will. She has stated that she has no objection for quashing the FIR and and C.C.No.450/PW/2021 pending before the Additional Metropolitan Magistrate,

68th Court, Borivali, Mumbai against the present applicant, however, she wishes to pursue the allegations against the co-accused, namely, Vishal Keshav Chavan.

5. 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.

6. Since respondent No.2 has volunteered to settle the dispute with the applicant, she is not going to support the allegations in the FIR, qua the applicant and further continuation of the proceedings

¹ 2012 (10) SCC 303

would be an exercise in futility and the chances of conviction of the applicant would be bleak and remote.

7. In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the Court, the application deserves to be allowed. Accordingly, FIR No.924 of 2020 registered at Kasturba Marg Police Station, Borivali, Mumbai for the offences punishable under Sections 452, 324, 509, 506, 504 read with Section 34 of the India Penal Code and C.C.No.450/PW/2021 pending before the Additional Metropolitan Magistrate, 68th Court, Borivali, Mumbai are quashed qua the applicant-Vaibhav Vishnu Birmole.

8. Rule is made absolute in above terms and the criminal application stands disposed of accordingly.

9. However, the Investigating Officer can proceed against respondent No.3-Vishal Keshav Chavan.

10. We appreciate the sincere efforts taken by Mrs.Racheeta Dhuru, learned appointed advocate for respondent No.2 and we quantify her fees at Rs.7,500/-.

11. The High Court Legal Services Committee, Mumbai is directed to pay the said amount to the appointed advocate Mrs.Dhuru within four weeks from the date of receipt of this order.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)