

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

CRIMINAL APPLICATION NO.280 OF 2021

Sachin Gundappa Hugge

... Applicant

Vs.

State of Maharashtra & another

... Respondents

Mr.Sagar Kasar i/b Mr.Dnyaneshwar Jaibhave for the Applicant
Mr.J.P. Yagnik, APP, Respondent – State
Mr.Amol Wagh for Respondent No.2
Mr.Pranit R. Shelar, Respondent No.2 – present through V.C.

**CORAM: S.S. SHINDE &
N.J. JAMADAR, JJ.**

DATED: JULY 8, 2021

ORAL JUDGMENT (PER S.S. SHINDE, J.):

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.

2. This Application is filed for the following substantive prayer:

“(bb) This Hon’ble Court be pleased to quash and set aside Criminal Case bearing RCC no.604 of 2021 of arising out of CR no.I 255/2020 registered at Koparkharine Police Station p/u Sec.326,323,504,506,143,145,147, 149 of IPC dated 30th October’ 2020 and Chargesheet no.I 28/2021 dated 24th March’ 2021 pending on file of Ld. JMFC, Vashi, District Thane;”

3. Learned Counsel appearing for the Applicant and Respondent No.2 submit that the parties have amicably settled the dispute and Respondent No.2 has no objection for quashing the impugned First Information Report No.255 of 2020 registered at Koparkhairane Police Station for the offences under sections 326, 323, 504, 506, 143, 145, 147, 149 of the Indian Penal Code and Chargesheet No.I 28/2021 *qua* the present applicant.

4. It is submitted that the applicant did not play any role. On the contrary, he tried to pacify the quarrel. However, out of misunderstanding, his name was mentioned in the First Information Report. Respondent No.2 is present before this Court. We have interacted with him through video conferencing. He stated that it is his voluntary act to enter into settlement and join the prayer of the applicant to quash the impugned First Information Report and the charge-sheet, restricted to the present applicant only. He stated that the First Information Report was lodged against the applicant out of misunderstanding and in fact, the applicant has not played any role in the alleged commission of the offence.

5. Learned APP appearing for the Respondent – State invited our attention to the statements of the prosecution witnesses, however, was unable to bring to the notice of this Court any specific act attributable to the applicant in the alleged commission of offence.

6. Taking an overall view of the matter and keeping in view the averments made in the affidavit filed by Respondent No.2 so also the statements of the witnesses, we are of the opinion that further continuation of the proceedings arising out of C.R. No.255 of 2020 registered at Koparkhairane Police Station for the offences under sections 326, 323, 504, 506, 143, 145, 147, 149 of the Indian Penal Code and Chargesheet No.I 28/2021 *qua* the present applicant, would be an exercise in futility. Since the respondent No.2 has clearly stated before this court that it is his voluntary act without any coercion to join the prayer of the applicant for quashing the First Information Report and charge-sheet *qua* the applicant, chances of conviction of the applicant would be remote and bleak.

7. Respondent No.2 has filed an affidavit and in the said affidavit, he has stated in paragraphs 3 to 9 as under:

“3. I say that after the said incident, recently I have realized that due to some misunderstanding I had mentioned the name of the present Applicant in the aforesaid FIR. I say that I also got to know that the Applicant had tried to intervene the said scuffle and tried to stop the other Accused persons who assaulted me. I also came to know from cousin Sachin Maruti Sapkal who was present with me at the time of incident that the Applicant did not participate in the said scuffle and that no role is attributed against the present Applicant. Thus, I realized that the Applicant is innocent and has been wrongly named by me in the FIR. I also learnt that the Applicant is employed as peon in MCGM and he comes from very humble background, that his entire family is dependent upon him and thus continuation of the criminal proceeding against him would cause serious prejudice to him and his family. And therefore I voluntarily agreed to give my free consent to quash the criminal proceedings arising out of said FIR in respect of the Applicant herein only.

4. I further say that I had mentioned the name of the present Applicant in the FIR due to some misunderstanding between us and therefore in view of the compromise taken place between us, the Application may kindly be allowed as prayed for considering the compromise took place between me and the Applicant.

5. I say that I shall continue the criminal proceedings arising out of aforestated FIR against the other five Accused persons viz. (1) Vishal Pachpute, (2) Parth Shevale, (3) Suraj Chikne, (4) Ganesh Shingade and (5) Navnath, who were actively involved in assaulting me.

6. I shall put all the disputes to an end in view of the compromise qua the Applicant.

7. I shall not initiate any proceedings or re-open any case mentioned qua the Applicant.

8. I say that it would be unjust and unfair to the present Applicant if the criminal case/trial arising out of said FIR proceeds in the concerned Hon'ble Court against him.

9. I have gone through the contents of the said Application as well as this affidavit. I say that my Advocate has translated & explained me all the contents in Marathi language. I hereby confirm that I voluntarily agree for the compromise has arrived without any force or coercion by the applicant or any other person."

8. The Supreme Court in the case of **Giansingh 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

1 2012 (10) SCC 303

quashing the criminal case despite full and complete 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.

9. In the light of the discussion in the foregoing paragraphs, in order to secure the ends of justice and prevent abuse of the process of the concerned Court, this Application deserves to be allowed. Accordingly, it is allowed in terms of prayer clause (bb) qua the applicant, namely, Sachin Gundappa Hugge. It is made clear that the case may proceed against the other accused.

10. Rule is made absolute accordingly. Writ Petition stands disposed of.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)