

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.234 OF 2021

Sagar Sadanand Mhatre Applicant
Versus
The State of Maharashtra and another Respondents

....
Ms. Sonali R. Chavan, Advocate i/b. Ashwini Bhagat, for the
Applicant.
Ms. S.D. Shinde, APP for Respondent No.1-State.
Ms. Vaishnavi Gujarathi, Advocate for Respondent No.2.
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**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 07 DECEMBER 2021

P.C.

Heard the learned counsel for the parties. The application is
taken up for disposal by consent.

2. The Applicant has filed this application for the following
relief :

*“b) That this Hon’ble Court be pleased to be quash and
set aside C.R. No-151/19 registered with CBD
Belapur Police Station, Navi Mumbai and
proceedings there to i.e. RCC Case No.238/2020 in
the file of Ld. Judicial Magistrate First Class, Vashi,
Navi Mumbai.”*

3. The reason given for quashing of the FIR is that the Applicant and Respondent No.2 have resolved their differences and Respondent No.2 has given consent for quashing of the FIR. The learned counsel for the parties rely upon the decision in the case of *Gian Singh Vs. State of Punjab and another*, reported in (2012) 10 SCC 303, more particularly the following observations :

“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 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-dominatingly civil favour 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.

(emphasis supplied)

4. The learned counsel for the parties contend that in this case as there are no repercussions on the society at large, the FIR can be quashed by consent.

5. In light of these submissions, we have perused the contents of the FIR. In her statement, the Respondent No.2 has stated that she works as an Advocate from the year 2012. The relationship between herself and the Applicant developed into a love relationship. In around April 2018, the Respondent No.2 decided not to continue with the relationship and explore any possibility of marriage. After informing so, on the date of the incident i.e. on 20 August 2019 the Applicant accosted her and tried to forcefully put her in a rickshaw and slapped her. With these allegations, the FIR was registered under Sections 354, 354A, 354D, 323, 504, 506 of the Indian Penal Code.

6. The learned counsel for the Respondent No.2 states that the Respondent No.2 has filed an affidavit in this Court sworn before the Assistant Registrar. The learned Counsel for the Respondent No.2 reiterates the contents of the affidavit on instructions of the Respondent No.2 who is present in the Court and identified by the learned counsel for the Respondent No.2 and that the Respondent No.2 has given consent.

7. In the affidavit, the Respondent No.2 has stated as under :

“4. I state and submit that I and the Petitioner was in love relationship with each other. I say that we had mutually settled the dispute between us and intend to lead our life in the peaceful way. I say that the alleged incident in the case had arose due to dispute between us which was personal in nature and in order to save our future, I had decided to not to continue with

the prosecution against the Petitioner.

5. *I state and submit that after the incident petitioner/accused never tried to disturb me also I want to work as an advocate in court peacefully in future, I am not willing to continue with the proceedings against the Petitioner.*
6. *I state and submit that the incident occurred on 20/08/2019 was sudden and was truly personal in nature and hence considering the above all stated facts and circumstances I do hereby wish to settle the case and or withdraw the case registered against the Petitioner. I say that I had gave my anxious consideration to the afore said incident and have NO OBJECTION if C.R. No-I-151/19 registered with CBD Belapur Police Station, Navi Mumbai and proceedings there to i.e. RCC Case No-238/2020 pending in the file of Ld. Judicial Magistrate First Class, Vashi against the Petitioner is quashed and set aside.*
7. *I state and submit that the Petitioner or any other persons related thereto had not given me any threat nor I am under any pressure or under influence of any one.”*

8. In light of what is stated in the FIR and the affidavit filed, it is quite clear that not quashing the FIR will be in fact against the interest of justice. Continuing the prosecution would be harassment to the concerned parties. Thus, we are of the opinion that the contention of the learned counsel that the case is covered by the decision of *Gian Singh* (supra) is correct. There is no reason why the legal position in the said decision is not applicable in the facts of the present case.

9. Accordingly, the application is allowed in terms of prayer clause (b) as reproduced above. The Applicant will pay costs of Rs.10,000/- to the Police Welfare Fund, Maharashtra within a period of four weeks from today. The order passed today is conditional upon the payment as above.

10. The application is accordingly disposed of in above terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)

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DESHMANE

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