

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 1102 OF 2021

Mohini Parag Pandharipande
Indian Inhabitant, Aged 72 years,
Residing at A-503, 24K Gliterrati,
Vishal Nagar, Pimple Nilakh,
Pune - 411 027.

...Petitioner

Versus

1. The State of Maharashtra
(Through the Senior Inspector, Andheri
Police Station)
2. Varsha Chandrashekhar Sankholker
Indian Inhabitant, Adult,
Residing at 1806, Oberoi Splendor,
JVLR, Jogeshwari (West),
Mumbai – 400 060.

...Respondents

Smt. Lakshmi Raman, for the Petitioner.
Mr. Rohit Pawaskar, a/w Smt. Varsha, for Respondent no.2.
Smt. S. D. Shinde, APP for the State/Respondent no.1.

**CORAM: S. S. SHINDE &
N. J. JAMADAR, JJ**
DATED: 16th JULY, 2021
(Through V.C.)

JUDGMENT : PER : N. J. JAMADAR, J.

1. Rule. Rule made returnable forthwith and, with the consent of the Counsels for the parties, heard finally.
2. This petition is preferred to quash and set aside the first information report bearing CR No.86/2021, registered with Andheri Police Station, Mumbai, for the offences punishable

under Sections 409, 420 read with Section 34 of the Indian Penal Code, 1860, ("the Penal Code"), on the basis of the settlement arrived at between the petitioner and respondent no.2 – first informant, qua the petitioner.

3. Smt. Raman, the learned Counsel for the petitioner and Mr. Pawaskar, the learned Counsel for respondent no.2 made a joint statement that the petitioner and respondent no.2 have amicably resolved the dispute and respondent no.2 does not desire to prosecute the petitioner.

4. Respondent no.2 appeared before the Court through Video Conferencing. We have interacted with the respondent no.2. She submits that she has voluntarily arrived at amicable settlement of the dispute between the petitioner. There is no coercion or duress. A sum of Rs.90,00,000/- has already been paid to her. Balance amount is also agreed to be paid.

5. Respondent no.2 sworn an affidavit. Paragraphs 2 to 5 of the affidavit read as under:

"2. I say that a consent a consent term for settlement of the dispute was filed in Bail Application No.560 of 2021 on 24th May, 2021. the said Bail Application was filed by Mr. Mohit Parag Pandharipande before the Hon'ble Sessions Court at Dindoshi. As part of the settlement Mrs. Mohini Parag Pandharipande & Mr. Parag Pandharipande are to pay a total amount of Rs.2.48 Crore for settlement of all dispute between the parties. It is further agreed between me and Mrs. Mohini Parag Pandharipande that upon receipt of Rs.90,00,000/- (Rupees Ninety Lakhs only), I will consent for

quashing of C.R. No.86 of 2021, dated 8th February, 2021, registered with Andheri Police Station, Mumbai only against Mrs. Mohini Parag Pandharipande.

3. I say that out of the aforesaid amount of Rs.90,00,000/- (Rupees Ninety Lakhs only) an amount of Rs.50,00,000/- (Rupees Fifty Lakhs only) has been paid by Mrs. Mohini Parag Pandharipande by bank transfer on 24th May, 2021, itself.

4. I say that I have been informed that as per the Consent Terms dated 24th May, 2021 the petitioner has got issued a Bankers Cheque/Demand Draft dated 28th June, 2021 for an amount of Rs.40,00,000/- (Rupees Forty Lakhs only) drawn on Kotak Mahindra Bank bearing no.571071 in favour of Chandrashekhar Sankholkar, who is my husband.

5. I further say that as per the Consent Terms the above mentioned Demand Draft will be handed over to me at the time of hearing of the petition. I say that as per the settlement arrived at between the petitioner, myself and my husband, I am accepting the aforesaid total amount of Rs.90,00,000/- (Rupees Ninety Lakhs only) towards the full and final settlement of the abovementioned complaint against the petitioner i.e. Mrs. Mohini Parag Pandharipande and have no objection to quashing of the CR No.86 of 2021 dated 8th February, 2021, registered with Andheri Police Station, Mumbai only against Mrs. Mohini Parag Pandharipande upon receipt of the Demand Draft/Bankers cheque as mentioned above.”

6. In the light of the aforesaid submissions and the averments, we have perused the material on record including the first information report. It seems that the genesis of the occurrence is in a commercial transaction between respondent no.2 and her husband Mr. Chandrashekhar, on the one side, and Mr. Mohit Pandharipande, the son of the petitioner, on the other side. The dispute seems to be essentially private one. It has predominantly a civil flavour. In view of the settlement arrived at between the petitioner and respondent no.2, the

possibility of the prosecution ending in a conviction qua the petitioner appears to be bleak.

7. A useful reference in this context can be made to the judgment of the Supreme Court in the case of *Gian Singh vs. State of Punjab and another*¹, wherein the Supreme Court has observed as under;

“61..... 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 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. The aforesaid pronouncement is on all four with the facts of the case, qua the petitioner. No fruitful purpose will be served by continuing the prosecution qua the petitioner. On the

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contrary, having regard to the age of the petitioner, the continuation of the prosecution would cause serious prejudice.

9. In the aforesaid view of the matter, to secure the ends of justice and prevent the abuse of the process of the Court, we are persuaded to allow the petition.

10. Hence, the following order:

: ORDER :

(i) The petition stands allowed in terms of prayer Clause (a), qua the petitioner – Mohini Parag Pandharipande.

(ii) Case to proceed against the rest of the accused.

11. Rule made absolute in aforesaid terms.

[N. J. JAMADAR, J.]

[S. S. SHINDE, J.]