

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

CRIMINAL WRIT PETITION NO. 1514 OF 2015

Sahil Zahid Mansoor Khan

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

...

Mr. Shyam Dewani a/w. Mr. Chirag Chanani, Mr. Goptal Tripathi and Mr. Kandarp Trivedi i/by. Dewani Associates for Petitioner.

Mr. Tajammul Usman a/w. Mr. M.A. Khan i/by. CAPRI Legal for Petitioner.

Mr. K.V. Saste, APP for State.

Respondent No. 3 is present through VC.

...

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

DATE : 15th SEPTEMBER, 2021.

ORAL JUDGMENT: [PER N.J. JAMADAR, J.]

1. Rule. Rule made returnable forthwith and heard with the consent of learned counsel for the parties.

2. This petition is preferred to quash the FIRs bearing C.R. No. 598 of 2014 for the offences punishable under Section 500, 509 and 506 of IPC and C.R. No. 11 of 2015 registered with Bandra Police Station for the offences punishable under Section 500, 506 (II) and 509 of IPC and Section 66(A) of Information Technology Act, 2000. The substance of accusations against the petitioner is that, in

order to defame the first informant-Respondent No. 3, the petitioner intentionally insulted and intimidated the Respondent No. 3.

3. The learned counsel for the petitioner and Respondent No. 3 make a joint statement that the petitioner and Respondent No. 3 have resolved the dispute amicably. The Respondent No. 3 has no objection to quash the impugned FIR. The Respondent No. 3 has also sworn an affidavit thereby giving consent for quashing the impugned FIR.

4. Respondent No. 3 appeared before the Court through video conference. We have interacted with Respondent No. 3. She submitted that she has decided to resolve the dispute. She has consented for quashing the FIR voluntarily. There is no coercion or duress. Respondent No. 3 admitted the contents of consent affidavit dated 06.02.2016. She further submitted that the dispute is resolved in accordance with memorandum of understanding executed between the parties (Exhibit-B annexed to the petition). She admitted the contents of memorandum of understanding and execution thereof.

5. Paragraphs No. 1 to 3 of the affidavit of Respondent No. 3 read as under:-

*1. I say that, I and the petitioners have settled our disputes in terms of "Memorandum of Understanding" dated 26th February, 2015 executed between us, a copy of which is annexed and marked as **Exhibit-'B'** in the present petition.*

2. I say that, in terms of the said Memorandum of Understanding as the petitioners have undertaken to not to publish any news, photograph etc. and have further agreed to not to disclose any personal/confidential information/article/ photographs and documents etc. and agreed to bind themselves as well as the persons claiming through under them. In view of such a solemn undertaking given by the petitioners/accused persons, I have agreed to not to prosecute several complaints made by me. In this view of the matter, therefore no fruitful purpose would be served in continuing the prosecution which is subject matter of present petition.

3. I say that I am filing this affidavit as directed by this Hon'ble court on 28/01/2016. I say that in the above circumstances, I have no objection to quash the FIR No. 579 of 2014, FIR No. 598 of 2014 and FIR No. 11 of 2015 registered with Bandra Police Station, Bandra, Mumbai.

6. In the light of aforesaid submissions, statement and averments in the affidavit of Respondent No. 3, we have perused the

material on record including the allegations in the FIRs. It seems that the alleged offences arose out of a business dispute between the parties. It further appears that the parties have eventually resolved the entire dispute amicably. The dispute appears to be predominantly of civil nature. In view of the settlement, it is very unlikely that the Respondent no. 3 would support the prosecution and it would end in conviction. The continuance of the prosecutions, in such circumstances, would serve no fruitful purpose. On the contrary, it will cause great prejudice not only to the petitioner, but to Respondent No. 3 as well. It would thus amount to abuse of the process of the Court.

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

¹ 2012 (10) SCC 303

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 propositions apply with equal force to the facts of case at hand. Thus, in order to secure the ends of justice and prevent the abuse of the process of the Court, we are persuaded to quash the impugned FIRs and consequent proceedings.

9. At the same time, it is necessary to note that the petition is pending before this Court for more than 5 years and the offences have their genesis in the commercial dispute. We are thus impelled to direct the petitioner to pay costs for a worthy cause.

10. The petition is thus allowed subject to payment of costs of Rs. 50,000/- (Rupees Fifty Thousand Only) in the following account.

Name of Bank of Account: Children Aid Soc
Donation
Bank Account No.: 02370100005612
Bank Name: UCO Bank
Branch: Matunga
Mumbai.
IFSC Code: UCBA0000237

11. Hence, the following order:-

ORDER

1. The petition stands allowed in terms of prayer clauses (b) and (f), subject to depositing cost of Rs. 50,000/-, in the account mentioned herein above, within three weeks from today. Prayer clauses (b) and (f), read as under :-

(b) This Hon'ble Court be pleased to issue a writ of certiorari or any other appropriate, writ/direction/order in the nature of writ of certiorari under Article 226 of the Constitution of India, 1950 and also u/sec. 482 of Criminal Procedure Code, thereby quashing and setting aside the F.I.R.s bearing C.R. No. 598 of 2014 and C.R. No. 11 of 2015 u/sec. 500, 506, 509 of I.P.C. and 66(A) of I.T. Act registered with Bandra Police Station, Bandra,

Mumbai, qua the Petitioner.

(f) This Hon'ble Court may be pleased to quashed the Criminal proceedings pending before Ld. Metropolitan Magistrate at Bandra, Mumbai, bearing its C.C. No. 1228/PW/2015 arising out of C.R. No. 11 of 2015.

2. Rule made absolute in above terms.
3. The petition stands disposed of.
4. Parties to act upon an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)