

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.551 OF 2021

Faran Israr Khan]
Age : 24 years, Occ : Service]
Residing at Room No.1,]
Manuel Chawl, 4th Golibar Road,]
Santacruz East, Mumbai]..... Applicant.

Versus

1] The State of Maharashtra]
(to be served through the office of]
Learned Public Prosecutor,]
High Court, Bombay)]
2] Mrs. Mehjabin Aarif Shaikh]
Age : 33 years, Occ : Estate Agent]
Resident of Gatge No.8, 6/44,]
MHADA Housing Board, Collector Compound]
Gayakwad Nagar, Malad West,]
Mumbai]..... Respondents.

Mr. Viral K Rathod for the Applicants.
Mr. V B Konde-Deshmukh, APP for the Respondent/State.
Ms. Saima A Sothe for Respondent No.2.
Respondent No.2 present through video conferencing.

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

DATE : 29th JULY 2021

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

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

2 The Applicant has filed this Application for the following

substantial relief :-

“(A) This Hon’ble Court be pleased to quash and set aside Chargesheet and Criminal Proceedings CC No.884/PW/2021 pending on the file of 71th Metropolitan Magistrate Court at Bandra, Mumbai arising out of CR No.119 of 2021 registered at the Vakola Police Station for the offence punishable under section 354D. 500 and 509 of the Indian Penal Code on such terms and condition as this Hon’ble Court deems fit.”

3 The learned counsel appearing for the Applicant and the learned counsel appearing for Respondent No.2 jointly submit that the parties have amicably settled the dispute.

4 The 2nd Respondent is present before this Court through Video Conferencing. The learned counsel appearing for the Respondent No.2 identified the 2nd Respondent. When we interacted with the 2nd Respondent, she stated that it is her voluntary act to enter into amicable settlement. She has no objection for quashing the impugned FIR and the charge-sheet.

5 In support of her aforesaid statements, the 2nd Respondent has filed her affidavit before this Court. In paragraphs 2 to 6, the 2nd Respondent has stated thus :-

“2 I say that after registration of FIR and after filing of the present Application much water has flown under the bridge and I have buried over my differences with the Applicant and has voluntarily reached an amicable

settlement out of Court with the Applicant.

- 3 I say that the contents of the FIR and charge sheet are not been substantiated and in any case in view of this affidavit and also out of the amicable settlement. I say that the FIR and charge sheet is now devoid of any force and I have no objection if the FIR, Charge sheet and criminal proceedings bearing CC No.894/PW/2021 be quashed against the Applicant.
- 4 I say that I have no objection if the FIR, Charge-sheet and Criminal Proceedings bearing CC No.884/PW/2021 pending before 71st Metropolitan Magistrate Court, Bandra Mumbai are quashed and set aside against the Applicant.
- 5 I say that I have gone through the contents of the above Criminal Application APL Stamp No.8067 of 2021 without going into the merits of the matter, I am giving my consent for quashing of the FIR, Charge-sheet, Criminal proceedings against the Applicant.
- 6 I say that I am filing the present Affidavit out of my free will and consent and no one has coerced or pressurized me to do the same.”

6 It is true that the investigating officer has invoked Section 354D of the Indian Penal Code, however, after perusing the allegations made in the FIR read in its entirety and in the light of the averments made in the affidavit filed by the 2nd Respondent, we are of the opinion that the said offence under Section 354D of the Indian Penal Code is not disclosed.

7 Since the parties have amicably settled the dispute and the 2nd Respondent has stated before this Court that it is her voluntary act to enter into

the settlement without any coercion or duress, no fruitful purpose will be served by continuing the further proceedings in Chargesheet and Criminal Proceedings CC No.884/PW/2021 pending on the file of 71st Metropolitan Magistrate Court at Bandra, Mumbai arising out of CR No.119 of 2021 registered at the Vakola Police Station for the offences punishable under section 354D, 500 and 509 of the Indian Penal Code

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 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

1 2012 (10) SCC 303

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 discussion in foregoing paragraphs, it is abundantly clear that the 2nd Respondent is not going to support the allegations made in the impugned FIR and continuation of further proceedings in the impugned FIR lodged by the 2nd Respondent against the Applicant and in CC No.884/PW/2021 would tantamount to the abuse of the process of the Court. Since the Respondent No.2 is not going to support the allegations in the FIR, the chances of conviction of the Applicant would be remote and bleak. In order to prevent the abuse of the process of the Court and to secure the ends of justice, it would be appropriate to quash and set aside impugned FIR and Chargesheet and Criminal Proceedings CC No.884/PW/2021 pending on the file of 71st Metropolitan Magistrate Court at Bandra, Mumbai arising out of CR No.119 of 2021 registered at the Vakola Police Station for the offence punishable under section 354D, 500 and 509 of the Indian Penal Code.

10 In that view of the matter, the Application deserves to be allowed and, the same is allowed in terms of prayer clause (A). Rule made absolute in the aforesaid terms. The Criminal Application stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]