

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

CRIMINAL APPLICATION NO. 453 OF 2021

Imran Mohammed Shaikh & Ors

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

...

Ms. Nidhi G. Dotiya for applicants.

Mr. Deepak Thakre, PP a/w. Mr. S.R. Shinde, APP for State.

Mr. Arif Bhati for Respondent No. 2.

Respondent No. 2 is present through video conferencing.

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

DATE : 10th JUNE, 2021.

P.C.:

1. This application is filed with following substantive prayer:-

a. that this Hon'ble Court may be pleased to quash the proceedings C.C. No. 437/PW/2019 (arising out of FIR bide C.R. no. 273 of 2017) pending before the file of the Ld. Addl. Chief Metropolitan Magistrate, 71st Court at Bandra, Mumbai for alleged offences punishable under section 498A, 406, 323, 504, 506 r/w 34 of Indian Penal Code filed at the instance of Respondent No. 2 on such terms and conditions as this Hon'ble Court may deem fit to grant in the circumstances of the case.

2. Learned counsel appearing for the applicants and Respondent No. 2 jointly submit that the parties have amicably settled the dispute and to that effect Respondent No. 2 has filed the affidavit. Therefore, it is jointly submitted that on the basis of amicable settlement the prayer of applicants to quash the impugned FIR and chargesheet may be favorably considered.

3. The relevant paragraphs of affidavit filed by Respondent No. 2 read as under:-

1. I say that upon my complaint, C.R. No. 273/2017 came to be registered by Santacruz Police Station against my husband and in-laws i.e the Applicants herein, and same is outcome of matrimonial dispute between Applicants and Respondent No. 2.

2. I say that dispute between us is amicably settled and accordingly consent terms dated 22/03/2021 is filed before Hon'ble Family Court Mumbai in Petition No. D-92 of 2018. I crave leave to refer and rely upon copy of consent terms as and when produced.

3. In view of consent terms and amicable settlement, I hereby give my consent/no objection for quashing of C.C. NO. 437/2019 (arising out of C.R. NO. 273/2017 registered with Santacruz police station) pending before Hon'ble Metropolitan Magistrate, 71st court, Bandra, Mumbai.

4. I say that the present affidavit is executed without any force or coercion and I have no objection if the C.C. NO. 437/2019 (arising out of C.R. NO. 273/2017 registered with Santacruz police station) which is lodge upon any complaint is quashed and set aside.

5. I say that disputes between us is amicably settled out of my own freewill, therefore I do not wish to prosecute case against the Applicants or pursue any legal proceedings against the Applicants in the subject matter.

6. I say that disputes giving rise to the present complaint is private in nature which is establishes that no purpose will be served to conduct the trial.

7. I say that the present affidavit is executed for better and effectual quash/withdraw/NOC to set a-side C.R. No. 273/2017 registered at Santacruz Police Station.

4. Respondent No. 2 is present. We have interacted with her through video conferencing. She stated that it is her voluntary act without any coercion to enter into the amicable settlement and join the prayer of applicant to quash the impugned FIR.

5. Since parties have amicably settled the dispute and to that effect consent terms so also affidavit of Respondent No. 2 is placed on record and the 2nd respondent herself stated that it is her voluntary act to enter into such settlement, no fruitful purpose

would be served by continuing the proceedings in C.C. No. 437/PW/2019 of 2019 arising out of C.R. No. 273 of 2017 pending before the file of Additional Chief Metropolitan Magistrate, 71st Court at Bandra, Mumbai.

6. Upon perusal of affidavit filed by the complainant and on interaction with her, it is abundantly clear that she is not going to support the allegations in the FIR and further continuation of proceedings in C.C. No. 437/PW/2019 of 2019 arising out of C.R. No. 273 of 2017 pending before the file of Additional Chief Metropolitan Magistrate, 71st Court at Bandra, Mumbai, would be an exercise in futility.

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. In the light of discussion in forgoing paragraphs, to secure the ends of justice and prevent the abuse of the process of the Court and keeping in view the consent terms so also affidavit filed by the complainant and interaction with 2nd respondent, wherein she stated that it is her voluntary act to enter into the settlement, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause (a). The application stands disposed of.

(N.J. JAMADAR, J.)

(S. S. SHINDE, J.)