

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

Amk

WRIT PETITION NO. 719 OF 2021

Dr. Prakash Bandivadekar

.. Petitioner

Vs.

State of Maharashtra & Anr.

.. Respondents

Mr. K. S. Patil for the Petitioner.

Ms. Sailee N. Dhuru for Respondent No.2.

Respondent No.2 present in Court.

Mrs. S. D. Shinde, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.

DATE : 17th FEBRUARY, 2021.

P. C. :

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

2. Learned Counsel appearing for Petitioner and Respondent No. 2 jointly submits that the parties have amicably settled the dispute. Learned Counsel for 2nd Respondent tendered across the bar affidavit-in-reply. Same is taken on record.

3. 2nd Respondent is present before this Court. He stated that it is his voluntary act, without any coercion for entering into the said settlement and praying for quashing the impugned FIR.

4. Paragraphs No. 2 to 4 of the said affidavit read as under:

2. I say that, I have amicably settled the entire disputes with the Petitioner. I do not desire to pursue the present proceedings/prosecution against the present petitioner. The

Petitioner was roped in the present case due to misunderstanding which is sorted out with the intervention of friends and elders.

3. I am aware that, the present petition is filed for quashing of the F.I.R. bearing C. R. No. 0030/2020 registered Gandhi Nagar Police Station, Kolhapur and all the proceedings arising out of the said C.R. I say that, I do not want to pursue the said F.I.R. and the criminal case arising out from the said F.I.R. against the petitioner and I have no objection if the present petition is allowed and the above referred F.I.R. bearing C. R. No. 0030/2020 registered with Gandhi Nagar Police Station, Kolhapur is quashed and set aside against the present Petitioner.

4. I am filing this affidavit on my own free will without any fear or pressure or undue influence. Considering the fact that I have resolved the disputes with the Petitioner, I consent for allowing this petition as prayed by the Petitioner.

5. Since the parties have amicably settled the dispute and 2nd Respondent is not inclined to continue with the allegations made in the FIR and prayed for quashing the impugned FIR, no fruitful purpose would be served by continuing the further proceedings arising out of C. R. No. 0030/2020 registered with Gandhi Nagar Police Station, Kolhapur for the offences punishable under Sections 387, 420, 506, 34 of the Indian Penal Code and 39 and 49 of the Maharashtra Money Lending Act, 2014.

6. 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,

¹ 2012 (10) SCC 303

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.

7. In view of the affidavit filed by 2nd Respondent and statement made before this Court that he does not wish to pursue the allegations in the FIR, the chances of conviction of the Petitioner appear to be bleak. In that view of the matter to secure the ends of justice and prevent the abuse of process of the Court, prayer made in the Writ Petition is allowed subject to Rs.10,000/- to be paid by the Petitioner to the Bar Council of Maharashtra and Goa in Account No. 000110110013597 in Bank of India, Main Branch, Fort, Mumbai. Accordingly prayer Clause (a) reads as under:

(a) This Hon'ble Court may pass appropriate order and quash and set aside the criminal case and all the proceedings arising out of the

said F.I.R. bearing C.R. No. 0030/2020 registered with Gandhi Nagar Police Station, Dist. Kolhapur.

8. Rule made absolute in terms of above prayer. The Writ Petition stands disposed of.

9. We make it clear that unless Rs.10,000/- is deposited in the aforesaid account, this order will not be effected.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
M.
Kadam

Digitally signed
by Arjun M.
Kadam
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