

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.554 OF 2021

Mr. Wilson Mathew,]
Aged about 43 years, an adult Mumbai Indian]
Inhabitant, at present Residing at Building]
No.72/12, Western Railway Quarters, Near]
Matunga Railway Station, Mumbai-400019]..... Applicant
versus
1] State of Maharashtra,]
At the instance of Sahu Nagar Police]
Station, State of Maharashtra]..... Respondent No.1
]
2] Mrs. Sangeeta Narendra Varne, aged 50]
years, An adult Indian Mumbai Inhabitant]
Residing at Bangarwadi, Taluka Maval,]
District Pune]..... Respondent No.2
(Original Informant)

Mr. Aniroddha Lad i/by KLT Law Associates for the Applicant.
Mr. K V Saste, APP for Respondent No.1/State.
Mr. Sameer Singh i/by Ms. Kruthika Pokale for Respondent No.2.

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

DATE : 10th August 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 learned counsel appearing for the Applicant and the 2nd
Respondent jointly submitted that the parties have amicably settled the
dispute.

3 The 2nd Respondent was present before this Court on 3rd August 2021. She was identified by the learned counsel appearing for her. The 2nd Respondent has filed her affidavit.

4 In order to ascertain whether the averments made in the said affidavit are under coercion or on free will, we have interacted with the 2nd Respondent on 03rd August 2021. She stated that it is her voluntary act to file the said affidavit and give consent for quashing the impugned FIR/the charge-sheet.

5 Paragraphs 2 to 4 of the affidavit of the 2nd Respondent are reproduced herein under for ready reference :-

“2 I say that the matter has been amicably settled and compromised between myself and the Applicant and that I have received a sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) from ICICI Lombard General Insurance Co. Ltd as compensation. Since I had received the compensation pursuant to the order passed by the Hon’ble Tribunal, I have no more grievance or complaint against the Applicant.

3 I say that a Criminal Case bearing CR No.273 of 2010 under Sections 279 and 338 of Indian Penal Code, 1860, was also registered by the Police at my instance against the Applicant as Police Case PS/2157/2010. I say that I am no desirous of pursuing/proceeding with the above Police Case No.PS/2157/2010, pending before the Learned Metropolitan Magistrate presiding at 12th Court

at Bandra, Mumbai. I say that the said Police Case is pending before the Learned Metropolitan Magistrate presiding at 12th Court at Bandra, Mumbai and the said Criminal Case is also required to be closed/disposed off as compromised and settled as per the order dated 4th November 2012. I say that I had affirmed and declared an Affidavit-Cum-Declaration dated 2nd June 2021 (Exhibit E to the above Company Application) and the contents thereof are true and correct.

4 *I say that I have no objection in allowing the above Criminal Application in favour of the Applicant thereby quashing and setting aside the Police Case No.PS/2157/2010, pending before the Learned Metropolitan Magistrate presiding at 12th Court at Bandra, Mumbai and the above Criminal Application may be allowed as sought therein by this Hon'ble Court."*

6 Pursuant to the order passed by this Court on 03rd August 2021, the Applicant has deposited Rs.1,00,000/- in the joint bank account of the 2nd Respondent and her husband. The learned counsel appearing for the Applicant has tendered across the bar the copies of the documents showing the said deposit of Rs.1,00,000/- in the joint bank account of the 2nd Respondent and her husband. The said copies of the documents are taken on record and marked as "X" for identification.

7 Since the parties have amicably settled the dispute and the 2nd Respondent has no objection for quashing the impugned FIR and Criminal Complaint being Criminal Case No.2157/PS of 2010, no fruitful purpose will be served by continuing the further proceedings i.e. Criminal Case No.2157/PS of 2010 pending before the learned Metropolitan Magistrate, 12th Court,

Bandra, Mumbai, for offences punishable under sections 279 and 338 of the Indian Penal Code, 1860.

8 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 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.

9 Since the Respondent No.2 is not going to support the allegations

1 2012 (10) SCC 303

in the FIR, the chances of conviction of the Applicants 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 the impugned FIR and the Criminal Case No.2157/PS of 2010 pending before the learned Metropolitan Magistrate, 12th Court, Bandra, Mumbai, for offences punishable under sections 279 and 338 of the Indian Penal Code, 1860.

10 In the light of the discussion in the aforesaid paragraphs and keeping in view the observations made by the Supreme Court in Giansingh's case (supra), the Criminal Application deserves to be allowed, and the same is accordingly allowed in terms of prayer clause (a) which read thus :-

(a) This Hon'ble Court be pleased to quash and set aside the entire proceedings in Criminal Complaint, being Criminal Case No.2157/PS of 2010 pending before the learned Metropolitan Magistrate Court Presiding in the 12th Court, Bandra, Mumbai, and the charge-sheet filed by the Sahu Nasgar, Police Station for the alleged offences punishable under sections 279 and 338 of the Indian Penal Code, 1860 on such terms and conditions as this Hon'ble Court may deem fit and proper.

Rule made absolute in the above terms. The Criminal Application stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]