

Mandira
Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.492 OF 2020

- | | | |
|--|---|----------------------|
| 1. Gazanfar Mohammed Saleh Navdekar |] | |
| |] | |
| 2. Nazim Mohammed Saleh Navdekar |] | |
| R/at 101, Nazim Navdekar Building |] | |
| Kacchi Mohalla, Panvel, Dist. Raigad |] | |
| |] | |
| 3. Asim Mohammed Siraj Patel |] | |
| |] | |
| 4. Nazim Mohammed Siraj Patel |] | |
| Both R/at Taloja Village, Tal.Panvel, |] | |
| Dist Raigad |] | .. Applicants |

VERSUS

- | | | |
|--|---|-----------------------|
| 1. The State of Maharashtra |] | |
| (Through Sr.P.I. Taloja, Dist. Raigad) |] | |
| |] | |
| 2. Mohammad Shafi Yusuf Patel |] | |
| R/o 119(1), Taloja Gaon, |] | |
| Near Akasa Masjid, Tal : Panvel |] | |
| District : Raigad |] | .. Respondents |

Mr.Swapnil R. Chopade Patil for the Applicants.

Mrs.S.D.Shinde, APP for Respondent No.1/State.

Mr.Prashant Patil for Respondent No.2.

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

**RESERVED ON : 16th FEBRUARY, 2021
PRONOUNCED ON : 23rd FEBRUARY, 2021**

JUDGMENT (PER MANISH PITALE, J.)

1. By this application, the applicants have invoked inherent powers of this Court under Section 482 of the Code of Criminal Procedure for quashing of FIR bearing No.249 of 2019 dated 14th December, 2019 registered at Police Station Taloja, Navi Mumbai whereby offences under Sections 419, 465, 466, 468, 471 read with Section 34 of the Indian Penal Code have been registered against the applicants.

2. The aforesaid FIR stood registered on the basis of a complaint submitted by respondent No.2 wherein he raised a grievance that certain portion of land, belonging to him, had been encroached upon and that there was tampering with documents so as to show that the land belonging to the said respondent was owned and possessed by the applicants.

3. It is specifically stated in the application that the applicants and respondent No.2 decided to settle the dispute amicably by intervention of common friends. As a result of the aforesaid exercise, the differences stood sorted out and the applicants agreed to execute a sale deed and convey the property in question at a mutually agreed price.

4. This Court issued notice in the present application on 2nd February, 2021. At this stage itself, respondent No.2 was represented by counsel and it was stated that an affidavit of respondent No.2 confirming the settlement between the parties has been placed on record.

5. Although the fact of settlement between the parties was brought to the notice of this Court, we thought it fit to inquire from learned APP appearing for respondent No.1/State to report as to whether there were any antecedents of the applicants. Learned APP made inquiries and reported to this Court that there were no cases registered against the applicants.

6. Respondent No.2 was present before this Court on 16th February, 2021. When we interacted with him, he confirmed that affidavit placed before this Court was executed on his instructions and that the dispute between the parties was now amicably settled. It was also submitted that the grievance arose on the basis of a misunderstanding between the parties and that since the dispute was now resolved, he did not wish to pursue the matter any more. The relevant contents of the affidavit of respondent No.2 read as follows :

“2. I say that, the applicant and I were known to each other and therefore we have resolved our disputes amicably and therefore I have do not have any type of grievances against the Applicants. The applicants are agreeing to execute the sale deed and convey the property which was purchased by them from the complainant a price mutually agreed by them on 23rd October 2020.

3. I say that, I am aware that, I am submitting that, I do not have any objection if the complaint lodged by me which is registered as CR No.249/2019 for offences punishable under section 419, 465, 466, 468, 471 r/w 34 of IPC and all the proceedings arising pursuant to said complaint be quashed. I say that, I do not want to pursue the said complaint as against the Applicants.”

7. The Hon'ble Supreme Court in the case of **Gian Singh 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 offences 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 has also held that 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. We have perused the FIR as also the contents of the application and the aforesaid affidavit placed on record by respondent No.2. We find that the dispute between the parties arose out of the misunderstanding and that since the dispute now stood resolved and there is no possibility of respondent No.2 supporting the allegations made against the applicants, further proceedings in pursuance to the said FIR would be of no consequence. Applying

¹ 2012 (10) SCC 303

the ratio of the aforesaid judgment of the Hon'ble Supreme Court, we are of the opinion that the present application deserves to be allowed.

9. In view of the above, the application stands allowed in terms of prayer clause (a), which reads as follows :

“(a) That this Hon'ble Court may pass appropriate orders and quash and set aside the C.R.No.249/2019 registered with Taloja Police Station Dist Raigad and all the further proceedings thereof as against the applicants.”

10. At the same time, we are of the opinion that some costs needs to be imposed on the applicants and that such amount needs to be utilised towards a noble cause. Accordingly, we direct the applicants to deposit an amount of Rs.50,000/- (Rs.Fifty Thousand only) towards costs within a period of four weeks from today in the account of the Children's Aid Society, the details of which are as follows :

Name	: The Children's Aid Society, Mumbai
SB Account No.	: 02370100005612
Bank	: UCO Bank
IFSC Code	: UCBA0000237

11. It is made clear that this order will take effect only after deposit of the aforesaid amount of costs within the stipulated period of time by the applicants.

12. The Criminal Application stands disposed of in the above terms.

(MANISH PITALE, J.)

(S.S.SHINDE,J.)