

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 524 OF 2020

1]	Rahul Haresh Rijhwani	]
	Age 28, Indian Inhabitant, Occupation Business	]
		]
2]	Haresh Rijhwani	]
	Age – Adult, Indian Inhabitant	]
		]
3]	Pooja Haresh Rijhwani	]
	Age – Adult, Indian Inhabitant,	]
		]
	All R/at : 3 rd Floor, Hareh Krishna Apartment,	]
	Near Alfa Medical, Gol Maidan,	]
	Ulhasnagar – 421001	]..... Applicants

versus

1]	State of Maharashtra	]
	(at the instance of Ulhasnagar	]
	Police Station, Ulhasnagar)	]
		]
2]	Sarah w/o Rahul Rijhwani	]
	@ Heena d/o Omprakash Bhatia	]
	Adult, Occ Household, Age 25 yrs.	]
	R/at 302. A-Wing, Dharam Villa Co-op	]
	Hsg Soc. Pnjabi Colony, Ulhasnagar-421003	]..... Respondents.

Mr. Girish Paryani i/by A G Legal Associates LLP for the Applicants.
Mrs. A S Pai, APP for the Respondent/State.
Ms. Aarti Deodhar i/by Mr. Virendra Pethe for Respondent No.2.
Respondent No.2 present.

CORAM : S. S. SHINDE,
M. S. KARNIK, JJ
DATE : 04th JANUARY 2021

ORAL JUDGMENT : [PER S S SHINDE, J]

1 Rule. Rule made returnable forthwith with the consent of the parties and heard finally.

2 By this Criminal Application filed under Section 482 of the Criminal Procedure Code the Applicants are seeking quashing of FIR vide CR No.I-53 of 2020 for the offences under Sections 498A, 323, 504, 506 of the Indian penal Code on 01/02/2020 registered with Central Police Station, Ulhasnagar bearing RCC No.805 of 2020 pending before the learned Joint Civil Judge & JMFC, Ulhasnagar.

3 The learned counsel appearing for the Applicants and the 2nd Respondent submits that the Applicants and the 2nd Respondent have amicably settled the dispute and to that effect Memo of Understanding has been signed by Applicant No.1 and the Respondent No.2. It is submitted that the 2nd Respondent has filed the affidavit stating therein that she has no objection for quashing the impugned FIR.

4 The 2nd Respondent is personally present in Court. She is identified by her advocate. On a specific query whether such an amicable

settlement has been entered into with her free will and without any coercion, her reply is in affirmative.

5 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 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.

6 We have carefully perused the Memo of Understanding signed by

1 2012 (10) SCC 303

Applicant No.1 and the 2nd Respondent. We do not want to reproduce the terms of settlement arrived at between the parties therein since both the parties have agreed to institute proceedings by taking course to Section 13(b) of Hindu Marriage Act. Suffice it to say that in view of amicable settlement as reflected in the Memo of Understanding, and the affidavit filed by the 2nd Respondent, no fruitful purpose would be served in continuing further investigation/proceedings arising out of FIR vide CR No.I-53 of 2020.

7 Since the 2nd Respondent has no objection for quashing the impugned FIR, certainly the 2nd Respondent is not going to support the allegations made in the FIR and further continuation of the investigation/proceedings arising out of the CR No.I-53 of 2020 for the offences under Sections 498A, 323, 504, 506 of the Indian penal Code on 01/02/2020 registered with Central Police Station, Ulhasnagar bearing RCC No.805 of 2020 pending before the learned Joint Civil Judge & JMFC, Ulhasnagar would be an exercise in futility and would tantamount to abuse of the process of Court.

8 In that view of the matter, to secure the ends of justice and to prevent the abuse of the process of the Court, the petition deserves to be allowed, and the impugned FIR is required to be quashed.

9 The Criminal Application is allowed. Rule is made absolute in terms of prayer clause (a). The Criminal Application stands disposed of accordingly.

10 This Judgment will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

[M. S. KARNIK, J]

[S. S. SHINDE , J]