

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.617 OF 2021

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| 1] | Yogesh Prabhudas Rajput
Age about 46 years, occ :- Service
R/o. Chandansar Mexivilla
Appartment 04 Flower
Room No.405, Virar East,
Tal – Vasai, Dist – Palghar |]
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| 2] | Daksh Yogesh Rajput,
Age about 18 years, occ – Student
R/o. Chandansar Mexivilla
Appartment 04 Flower
Room No.405, Virar East,
Tal – Vasai, Dist – Palghar |]
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| 3] | Geeta Yogesh Rajput
Occupation – Housewife
Age about 42 years,
R/o. Chandansar Mexivilla
Appartment 04 Flower
Room No.405, Virar East,
Tal – Vasai, Dist – Palghar |]
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| | |]
]..... Applicants.
](Org. Accused) |

versus

- | | | |
|----|---|---|
| 1] | The State of Maharashtra
Through
Senior Police Inspector,
Virar Police Station,
Dist. Palghar
In F.I.R. No.0607/2020
dtd. 26-06-2020
(Notice to be served on the A.P.P.
High Court, Mumbai) |] |
| 2] | Vinay Kumar Jha
Age about 38 years,
Occupation : Service
R/o. Chandansar Mexivilla |] |

Appartment 04 Flower
Room No.402, Virar East,
Tal – Vasai, Dist – Palghar

]..... Respondents.
] Respondent No.2
] is Org. Complainant

Mr. B A Lawate a/w Mr. S D Inamdar-Shinde for the Applicants.
Mr. J P Yagnik, APP for the Respondent/State.
Respondent No.2 present.

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

DATE : 01st September 2021

ORAL JUDGMENT (PER S. S. SHINDE, J)

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

2 This Criminal Application is filed for the following substantial relief :-

“(b) This Hon’ble Court be pleased to quash and set aside F.I.R. No.0609/2020, dtd. 26-06-2020 recorded at the instance of Virar Police Station for the offences u/sec. 323, 504, 506, 427, 143, 147, 149 of the Indian Penal Code.

3 The learned counsel appearing for the Applicant submits that the parties have amicably settled the dispute. It is submitted that the Applicant and the 2nd Respondent are residing in the same building, and with the intervention of the persons residing in the said building, the Applicant and the 2nd Respondent have decided to resolve and settle the dispute amicably.

4 The 2nd Respondent has filed his affidavit in support of the said amicable settlement. In paragraphs 2 to 5 of the Affidavit, the 2nd Respondent stated thus :-

- “2 I say that on 26-06-2020 there was a minor quarrel between me and the Applicants and it took place in a spur of moment. I say that due to the misunderstanding an FIR has been recorded.
- 3 I say that myself and the Applicants/Accused wants to put an end to the litigation and wants to resolve the present matter amicably.
- 4 I say that considering the above said all facts and circumstances, myself have no objection to compound and quash and set aside an F.I.R. No.0609/2020, dtd. 26-06-2020 was recorded at the instance of Virar Police Station for the offences U/sec. 323, 504, 506, 427, 143, 147, 149 of the Indian Penal Code.
- 5 There is no force, coercion and undue influence on the part of the Respondent No.2 while executing the said affidavit dtd. 05.08.2021. The Respondent No.2 is fully aware of the legal consequences of executing and filing the present affidavit before this Hon’ble Court.”

5 The 2nd Respondent is present before this Court. The 2nd Respondent is identified by the learned counsel Mr. B. A. Lawate. We have interacted with the 2nd Respondent. He stated that it is his voluntary act to enter into the settlement and to give consent for quashing the impugned FIR. He further stated that the FIR was registered out of misunderstanding.

6 Since the 2nd Respondent has decided to amicably settle and resolve the dispute and not to proceed with the impugned FIR, no fruitful

purpose would be served in continuing the further investigation in the impugned FIR No.0609 of 2020 dated 26-06-2020 registered with Virar Police Station for the offences punishable under Sections 323, 504, 506, 427, 143, 147 and 149 against the Applicants.

7 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, 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.

1 2012 (10) SCC 303

8 As stated herein above, the parties are residing in the same building and it is informed that as the parties want to maintain the cordial relations and harmony in future, they have decided to settle/resolve the dispute amicably.

9 In the light of discussion in foregoing paragraphs, it is abundantly clear that the 2nd Respondent is not going to support the allegations made against the Applicants in the impugned FIR, and further continuation of investigation in the impugned FIR would tantamount to the abuse of the process of the Law/Court. Since the first informant i.e. the 2nd Respondent is not going to support the allegations in the FIR, the chances of conviction of the accused would be remote and bleak.

10 In view of above, and keeping in view the averments in the affidavit filed by the 2nd Respondent, the Criminal Application deserves to be allowed, and the same is allowed in terms of prayer clause (b) which reads thus :-

“(b) This Hon’ble Court be pleased to quash and set aside F.I.R. No.0609/2020, dtd. 26-06-2020 recorded at the instance of Virar Police Station for the offences u/sec. 323, 504, 506, 427, 143, 147, 149 of the Indian Penal Code.

11 Rule is made absolute to the above extent and the Criminal
Application stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]