

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.191 OF 2021

Mandira
SalgaonkarDigitally signed by
Mandira Salgaonkar
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1. **Mohammed Javed Abdul Rehman Patel** }
 Aged 44 years, Occ : Business, }
 Residing at 403, 4th Floor, }
 An-Nazir Bldg., Momin Nagar, }
 Patel Estate Road, }
 Jogeshwari (W), }
 Mumbai – 400 102 }
 }
2. **Abdul Wahab Mohammed Yasin Sawdi** }
 Aged : 36 years, Occ : Business }
 Residing at 401, 4th floor, }
 Noor Castle CHS Ltd., Opp. Noorani }
 Masjid, Pathanwadi, Rani Sati Marg, }
 Malad (East), Mumbai – 400 097 } .. **Petitioners**

Versus

1. **State of Maharashtra** through }
 Turbhe MIDC Police Station, }
 Through Public Prosecutor }
 }
2. **Maqsood Abdul Gani Moin** }
 Aged 43 years, Occ : Business, }
 Residing at A/3/1203, Hill Park Tower, }
 Agrwal Estate, Jogeshwari (W), }
 Mumbai – 400 102 } .. **Respondents**

...

Mr.Sayed Zia for the Petitioners.

Mr.Mehul Thakker for Respondent No.2.

Mr.Maqsood Abdul Gani Moin-Respondent No.2 present in Court.

Mr.K.V.Saste, APP for the Respondent/State.

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

DATED : 25th JANUARY, 2021

M.M.Salgaonkar

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

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

2. Learned counsel appearing for the Petitioners and Respondent No.2 submit that the parties have amicably settled the dispute and to that effect, consent terms are arrived at between the parties. Learned counsel appearing for Respondent No.2, has tendered across the bar, affidavit-cum-no objection. Same is taken on record.

3. Respondent No.2 is present before this Court. He has stated that it is his voluntary act to enter into settlement and he is withdrawing the allegations made against the Petitioners. He further stated that he does not wish to prosecute the Petitioners and he has no objection to quash the impugned FIR.

4. Paras 1 to 5 of the affidavit-cum-no objection filed by Respondent No.2 read as under:

“1. I say that due to difference of opinion and on account of misunderstanding, initially I (Maqsood Moin Abdul Gani the Respondent No.2) lodged a complaint with the Turbhe MIDC Police Station, Navi Mumbai against the Petitioners. The Turbhe MIDC Police station registered FIR No.342 of 2020 dated 18/09/2020 under Section 420 of Indian Penal Code and recorded my statement thereunder.

2. I say that during the relevant time the matter was mutually settled between me and the Petitioners along with one of our partner Mr.Ali Husain Ahmed Sunesra and we jointly executed Deed of Settlement between Petitioners and Respondent No.2 along with one Mr.Ali Husain Ahmed

Sunesra to that effect and I have accordingly informed the Respondent No.1 about mutual settlement of the matter and requested not to proceed further in the matter.

3. I say that we are going to act as per the Deed of Settlement and we will abide by the Deed of Settlement. I say that I am filing present affidavit with an understanding that the Petitioners shall not repeat the offence again.

4. I say that all disputes between me and the Petitioners above-named are settled and whatever allegations leveled by me against the Petitioners above-named are hereby withdrawn. I have no grievance/allegations against the Petitioners. I say that since the dispute is settled I have NO OBJECTION if this Hon'ble Court quashes the criminal proceedings initiated by the Respondent No.2 by lodging FIR No.342 of 2020 dated 18/09/2020 registered by Turbhe MIDC Police station, Mumbai against the Petitioners above-named under Section 420 r/w 34 of The Indian Penal Code.

5. I pray that this Hon'ble Court be pleased to quash the criminal proceedings initiated by the Respondent No.1 by lodging FIR No.342 of 2020 dated 18/09/2020 registered by Turbhe MIDC Police station, Mumbai against the Petitioners above-named under section 420 r/w 34 of The Indian Penal Code.”

5. 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 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

¹ 2012 (10) SCC 303

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. Since the Petitioners and Respondent No.2 have amicably settled the dispute and Respondent No.2 has no intention to pursue the allegations in the first information report, further investigation of Crime No.342 OF 2020 registered with Turbhe MIDC Police Station for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code would be an exercise in futility and the chances of conviction of the Petitioners would be bleak and remote.

7. 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 No.342 of 2020 registered with MIDC Turbhe Police Station is required to be quashed.

8. The writ petition is allowed. Rule is made absolute in terms of prayer clause (a), which reads as under :

“(a) This Hon’ble Court may be pleased to quash the FIR No.342 of 2020 dated 18.09.2020 registered with Turbhe MIDC Police Station, Navi Mumbai under section 420 and 34 of the Indian Penal Code.”

9. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S.SHINDE, J.)