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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE**

CRIMINAL WRIT PETITION NO.145 OF 2021

Santosh Ramchanddra Sawant

... Petitioner

Versus

State of Maharashtra & another

... Respondents

Mr.Karim Pathan for the Petitioner

Ms.Sangeeta Shinde, APP, for Respondent – State

Mr.Avendra Kumar i/b Mr.Akbar Pindhara for Respondent No.2

Respondent No.2 present in Court

PSI Dhumal, BKC Police Station – present

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

DATED: AUGUST 11, 2021

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

1. Rule. Rule made returnable forthwith with the consent of the learned Counsel appearing for the parties and heard finally.
2. This Petition takes exception to filing of First Information Report No.47 of 2020 for offences punishable under sections 409

and 420 of the Indian Penal Code registered with BKC Police Station, Bandra.

3. Learned Counsel appearing for the petitioner and Respondent No.2 jointly submit that the parties have amicably settled the dispute which arose from sale and purchase of a flat.

4. Respondent No.2 has filed an affidavit. In the said affidavit in paragraphs 2 to 6, he has stated thus:

“2. I say that I do not wish to proceed in the matter and wish to compound the same since the differences and disputes between us have been amicably resolved the Petitioner have already paid me Rs.5,55,374/- (Rupees Five Lakhs Fifty Five Thousand Three Hundred and Seventy Four Only) through net banking.

3. I say that I have no grievance or any grudge or any ill feelings towards Petitioner and further I am making this affidavit in reply without any pressure, force, coercion or undue influence from anyone.

4. I say that I have no objection if the FIR vide C.R. No.47 of 2020 registered at BKC Police Station for offences under section 409, 420 of IPC, Mumbai lodged by me is treated as closed and I also agree to cooperate with Petitioners before the Courts of law for getting matter quashed or compounded.

5. I say that I have NO OBJECTION if this Hon'ble Court quashes subject FIR on the ground of amicable settlement between me and the Petitioner.

6. I say that I have no claims of any nature against Petitioner and further more out of my own free will I am

preparing this reply. I have been read and explained the contents hereinbefore in Hindi language to me and same are true and correct as per my knowledge.”

5. We have interacted with Respondent No.2, who is present in Court. He is identified by his advocate. He stated that he has received the entire amount and he has no objection for quashing the First Information Report.

6. Since Respondent No.2 has amicably settled the dispute, he is not going to support the prosecution case and chances of conviction of the petitioner would be bleak and remote. In view of the discussion in the foregoing paragraphs, in our considered opinion, further continuation of First Information Report No.47 of 2020 for offences punishable under sections 409 and 420 of the Indian Penal Code registered with BKC Police Station, Bandra would be an exercise in futility and would tantamount to abuse of process of the Court.

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

¹ 2012 (10) SCC 303

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 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.

8. In that view of the matter, in order to secure the ends of justice and to prevent further abuse of the process of said Court, we are inclined to allow the petition. Accordingly, the petition is allowed and Rule is made absolute in terms of prayer clause (a),

which reads as under:

“(a) This Hon’ble Court may kindly quash / de-register the FIR being C.R. No.47 of 2020 registered at BKC Police Station, Bandra for offences punishable u/s 409,420 of IPC.”

9. Rule made absolute in the above terms. Writ Petition stands disposed off accordingly.

(N.J. JAMADAR, J.)

(S.S. SHINDE, J.)