

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.545 OF 2020

Deepak Sureshkumar Tibrewala]
Age : 34 years, Occ : Nil]
R/o – Plot No.199-B, N-3, CIDCO, Aurangbad].... Applicant

versus

1] State of Maharashtra]
Through Police Inspector]
Police Station Kothrud,]
Pune]
2] Prerna Deepak Tibrewala]
(Prerna Ramgopal Kedia)]
Age : 32 years, Occ : Service]
R/o. Plot No.100, Mahatma Society]
Lane No.6, Opp. Gandhi Bhavan,]
Kothrud Road, Pune]..... Respondents.

Mr. C P Sengaonkar for the Applicant.
Mr. V B Konde-Deshmukh, APP for the Respondent No.1/State.
Mr. Chetan Agarwal for Respondent No.2.
Respondent No.2 present through video conferencing.

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

DATE : 30th JULY 2021

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

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

2 The Applicant has filed this Application for the following

substantial relief :-

“(B) The Crime No.150/2017, registered at Kothrud Police Station for the offences under 419 of THE INDIAN PENAL CODE, 1860, 66(c), 66(d) OF INFORMATION TECHNOLOGY ACT and the consequent criminal proceedings Regular Criminal Case No.4963/2018 (State v/s. Deepak) pending before Judicial Magistrate First Class (17) at Pune, for offences under 419 OF THE INDIAN PENAL CODE, 1860, 66(c), 66(d) OF INFORMATION TECHNOLOGY ACT be quashed and set aside.”

3 The learned counsel appearing for the Applicant and the learned counsel appearing for Respondent No.2 jointly submit that the parties have amicably settled the dispute.

4 The 2nd Respondent is present before this Court through Video Conferencing. The learned counsel appearing for the Respondent No.2 identified the 2nd Respondent. When we interacted with the 2nd Respondent, she stated that it is her voluntary act to enter into amicable settlement. She has no objection for quashing the impugned FIR and the charge-sheet.

5 In support of her aforesaid statements, the 2nd Respondent has filed her affidavit before this Court. In paragraphs 4 to 10, the 2nd Respondent has stated thus :-

“4 I say I admitted that we have amicably settled the above

said matter out of court.

- 5 *I say that I and applicant No.1 married on 25/01/2015 at Aayush Resort. Tq. Panvel, Dist. Raigad as per the Hindu rites and customs.*
- 6 *I say the contentions state in Para No.3 are admitted by me. We have filed compromise deed before the Family Court Pune.*
- 7 *I say the contentions stated in grounds of applications are admitted to me.*
- 8 *I say that as we have settled our dispute out of court and filed compromise deed in the divorce petition filed by me before the Honourable Family Court Pune there is no point in proceeding with the case bearing RCC 4963/2018.*
- 9 *I say that, I withdraw all the allegations mentioned in the complaint filed by me against Applicant in the Complaint bearing Crime No.150/2017.*
- 10 *I say I do not want to proceed with the complaint filed by me against the applicant. I have no objection if the Honourable Justice is pleased to quash the complaint filed by me.”*

6 Since the parties have amicably settled the dispute and the 2nd Respondent has stated before this Court that it is her voluntary act to enter into the settlement without any coercion or duress, no fruitful purpose will be served by continuing the further proceedings in RCC No.4963/2018 and the FIR bearing Crime No.150/2017 registered with Kothrud Police Station Pune at the instance of the 2nd Respondent for the offence punishable under Sections 419 of the Indian Penal Code and under Sections 66(c) and 66(d) of the

Information Technology Act.

8 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.

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 in

1 2012 (10) SCC 303

the impugned FIR and continuation of further proceedings in RCC No.4963/2018 and the FIR bearing Crime No.150/2017 would tantamount to the abuse of the process of the Court. Since the Respondent No.2 is not going to support the allegations in the FIR, the chances of conviction of the Applicant would be remote and bleak. In order to prevent the abuse of the process of the Court and to secure the ends of justice, it would be appropriate to quash and set aside impugned FIR bearing Crime No.150/2017 registered with Kothrud Police Station Pune at the instance of the 2nd Respondent for the offence punishable under Sections 419 of the Indian Penal Code and under Sections 66(c) and 66(d) of the Information Technology Act, and the criminal proceedings in RCC No.4963/2018

10 In that view of the matter, the Application deserves to be allowed and, the same is allowed in terms of prayer clause (B). Rule made absolute in the aforesaid terms. The Criminal Application stands disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]