

Mandira
Salgaonkar

Digitally signed by
Mandira
Salgaonkar
Date: 2021.02.18
20:08:53 +0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.304 OF 2021

Pankaj Gulati	]	
Adult Indian Inhabitant of Mumbai	]	
Having address at Breach Candy Apts.	]	
B Wing, 5 th Floor, Bhulabhai Desai	]	
Road, Mumbai -26	]	
	]	.. Petitioner

VERSUS

1. Mr.Ashok Mirchandani	]	
Adult, Indian Inhabitant of Mumbai	]	
Having address at Sunshine Building,	]	
Dr.Rajabali Patel Lane,	]	
Near Breach Candy Hospital,	]	
Mumbai-26.	]	
	]	
2. State of Maharashtra	]	
Through Sr.Inspector of Police	]	
Gamdevi Police Station, Mumbai	]	.. Respondents

Mr.Pranav Badheka i/b Ryan S. Srivastava for the
Petitioner.

Mr.Sanjog Parab, Senior Advocate with
Ms.Gunjan Mangla for Respondent No.2.

Mrs.S.D.Shinde, APP for the Respondent/State.

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

RESERVED ON : 10th FEBRUARY, 2021
PRONOUNCED ON : 18th FEBRUARY, 2021

JUDGMENT (PER MANISH PITALE, J.)

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.
2. The petitioner has approached this Court seeking quashing of FIR No.175 of 2020 registered at Gamdevi Police Station, Mumbai for the offences punishable under Sections 420, 406 of the Indian Penal Code.
3. The allegation against the petitioner pertains to the transaction concerning sale of a flat in connection with which, respondent No.1 (original complainant) had handed over an amount of Rs.40,00,000/- to the petitioner. Due to some reasons, transaction could not go through and respondent No.1 requested the petitioner to return the said amount. As a dispute arose between the parties, it led to respondent No.1 submitting the complaint dated 20th August, 2020 against the petitioner, resulting in registration of the aforesaid FIR.
4. Thereafter, mutual friends of the parties intervened in the matter and the dispute was amicably resolved.
5. As a consequence, when this petition was listed, counsel entered appearance on behalf of respondent No.1 and sought short adjournment to place on record the details of the manner in which the dispute was settled between the parties. Thereafter, a consent affidavit of respondent No.1 was handed over in Court wherein it was categorically stated that the dispute between the parties was

resolved and the amount of Rs.40,00,000/- was returned, due to which, allegations levelled against the petitioner were being withdrawn. It was stated that the amounts were deposited in the bank account of the person on whose behalf, respondent No.1 had entered into the transaction and that, therefore, there was no surviving grievance in the matter. We had interacted with respondent No.1 through video conferencing on 5th February, 2021 and he confirmed the fact that the dispute was now resolved and that the consent affidavit dated 1st February, 2021 had been drafted at his instance.

6. The Hon'ble Supreme Court in the case of **Gian Singh 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 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

1 2012 (10) SCC 303

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.

7. Applying the said position of law to the facts of the present case, it becomes evident that further proceedings in pursuance of the said FIR would be of no consequence as respondent No.1 will not be supporting the allegations made against the petitioner. Therefore, the chances of the petitioner being held guilty are bleak and remote. We are, therefore, of the opinion that no purpose would be served if the proceedings pursuant to the said FIR are permitted to be continued. In view of the above, the writ petition is allowed in terms of prayer clause (a).

8. However, we deem it appropriate to impose cost of Rs.50,000/- (Rs.Fifty Thousand Only) on the petitioner. The petitioner shall deposit the said amount as cost within two weeks from today, in the account of the Children's Aid Society, the details of which are as follows :

Name	:	The Children's Aid Society, Mumbai
SB Account No.	:	02370100005612
Bank	:	UCO Bank
IFSC Code	:	UCBA0000237

9. Payment of cost is condition precedent to the quashing of FIR.

10. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S.SHINDE,J.)