

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

CRIMINAL APPLICATION NO. 1285 OF 2019

Mayur Shantilal Motani

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

...

Mr. Pranav Avhad a/w. Ms. Darshana Naval i/by. White and Brief Advocates and Solicitors for applicant.

Mr. Harsh Buch i/by. MZM Legal for Respondent No. 2.

Respondent No. 2 is present through video conferencing.

Mrs. A.S. Pai, PP for State.

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

DATE : 17th JULY, 2021.

ORAL JUDGMENT [PER S.S. SHINDE, J]:

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

2. This application is filed with the following substantive prayer:-

a) Allow this Petition under Section 482 of the Criminal Procedure Code by quashing the FIR (being C.R. No. 161 of 2015) dated 08.10.2015 lodged under section 354(d), 506, 509 of the IPC and section 67 of the IT Act, 2000 lodged with Cyber Police Station and the Chargesheet filed by Cyber Police Station before the 37th Metropolitan Magistrate, Esplanade.

3. Learned counsel appearing for the applicant and Respondent No. 2 jointly submit that the applicant and 2nd respondent have amicably settled the dispute and the 2nd respondent has filed affidavit thereby giving consent for quashing the impugned FIR and chargesheet.

4. Respondent No. 2 is present before us through video conferencing. We have interacted with her. She stated that it is her voluntary act without any coercion to enter into the amicable settlement and give consent for quashing the impugned FIR and chargesheet.

5. Respondent No. 2 has filed the affidavit. Paragraphs 1 to 5 of the said affidavit reads as under:-

1. I say that I had filed an FIR bearing C.R. No. 161 of 2015 dated 08 October 2015 against the Applicant/Original Accused; mentioned in the cause title above; lodged under Sections 354(d), 506, 509 of the IPC and Section 67 of the IT Act, 2000 with the Cyber Police Station.

2. I say that the concerned Police station subsequently filed the Chargesheet in the said FIR before the Ld. 37th Chief Metropolitan Magistrate, Esplanade under Sections 354(d), 506,

509 of the IPC and Section 67 of the IT Act, 2000 in case bearing no. 857/PW/2016.

3. I say that the Applicant/Original Accused and I have mutually resolved all our differences, reached an amicable settlement and dissolved our marriage by filing consent terms in Petition A-3053 of 2017 before the Hon'ble Family Court at Bandra.

4. I say that in light of dissolution of our marriage and resolution of differences between us, I am consenting to quash the criminal proceedings and have no objection if the subject FIR is quashed and set aside.

5. I say that all the contents mentioned hereinabove are true and correct to the best of my knowledge and belief, and I am making this Affidavit out of my own free will and without any pressure or coercion in the Criminal Application No. 1285 of 2019 filed by the Applicant/Original Accused herein to quash the said FIR bearing C.R. No. 161 of 2015 dated 08 October 2015 lodged under Sections 354(d), 506, 509 of the IPC and Section 67 of IT Act, 2000 with the Cyber Police Station against the Applicant/Original Accused.

6. Since the parties have amicably settled the dispute and 2nd respondent has filed the affidavit thereby giving consent for quashing the impugned FIR and chargesheet, no fruitful purpose will be served by continuing the further proceedings of

PW/857/2016 pending before the 37th Chief Metropolitan Magistrate, Esplanade, arising out of FIR bearing C.R. 161 of 2015, registered for the offences punishable under Sections 354(d), 506, 509 of the IPC and Section 67 of the IT Act, 2000.

7. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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

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.

8. In view of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of Court, the application deserves to be allowed. Accordingly, the application is allowed in terms of prayer clause (a), which is reproduced hereinabove in para no. 2.

9. Rule made absolute to above extent. The application stands disposed of.

10. All concerned to act upon an authenticated copy of this order.

(N. J. JAMADAR, J.)

(S. S. SHINDE, J.)