

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

CRIMINAL APPLICATION NO. 1202 OF 2018

1. Manish Vijay Bhanushali
Age: 48, Occ. Business,
R/at:- A/4, Kalindi,
Lok Gram, Kalyan (East).
2. Harischandra Narayan Meher
Age: 58, Occ. Business,
R/at. House No. 210, Bharvi Dam Road,
Earanjad (Mohpada) Badlapur (West).
3. Sharad Krushna Patil
Age: 54, Occ. Business,
R/at: Katrap Village, Kulgaon,
Badlapur (East).
4. Sanjeevkumar Chandrashekhar Mishra
Age: 52, Occ: Advocate,
R/at- 402, Vaidehi Apartment
New Shukla Compound
Opp. Mutas Hindi High School,
Katemanivali, Kalyan-421306.

...APPLICANTS

Versus

1. The State of Maharashtra
At the instance of
Mahatma Phule Chowk Police Station
Kalyan.
2. Mr. Rajeev Jayprakash Bharadwaj
Age: 58, Occ. Business,
R/at. Bhatans Estate,
Opposite Shalimar Petrol Pump,
Dr. C. Gidwani Road, Chembur,
Mumbai-74.

...RESPONDENTS

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Mr. Anil D. Joshi a/w. Ms. Sandhya Mailagir, Advocate for applicants.
Mr. Atul Kumar Ojha for Respondent No. 2.
Mr. Deepak Thakre, PP a/w. Mrs. S.D. Shinde, APP for State.

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

**RESERVED ON- 10th MARCH 2021.
PRONOUNCED ON- 15th MARCH 2021.**

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

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

2. Learned counsel appearing for the applicants and Respondent No. 2 jointly submits that the parties have amicably settled the dispute. The Respondent No. 2 has filed the affidavit. Paragraphs 2 to 7 of the said affidavit reads as under:-

1. I say that, the impugned FIR came to be registered vide CR No. I-178/2018 dated 23/04/2018 with Mahatma Phule Chowk Police Station, Kalyan Thane for offence punishable u/s. 420, 406, 465, 467, 468, 471 r/w. Sec. 34 of the I.P.C.

2. I say that, as the Applicants i.e. Mr. Manish Vijay Bhanushali, Mr. Harischandra Narayan Meher, Mr. Sharad Krushna Patil, Sanjeevkumar Chandrashekhhar Mishra, between me that matter is amicably settled between myself and Applicants and therefore, I do not want to further proceed with the CR No. I-178/2018, registered with

Mahatma Phule Chowk Police Station, Kalyan, Thane for the Offences punishable u/s. 420, 406, 465, 467, 468, 471 r/w. Sec. 34 of I.P.C. Hereto annexed and marked as Exhibit "A-Colly" are the copies of written affidavit of the Respondent No. 2 filed before the Hon'ble Sessions court Kalyan in ABA No. 795/18 dated 11/06/2018 and consent and terms dated 11/06/2018 filed before the CJSD in Special Civil Suit No. 218/17 along with the Affidavit.

3. I say that, I had filed the Special Civil Suit No. 218 Of 2017, before Hon'ble Civil court, Kalyan, and the same is decreed vide order dated 18/08/2018 in view of consent terms dated 11/06/2018.

4. I say that, the dispute was regarding mention in CR No. 178/2018 is amicably settled/compromised between myself and Applicants herein vide consent terms filed in the Honble Civil Court, Kalyan on 11/06/2018.

5. I say that, we have amicably resolved our differences and amicably settled all the issues arising thereto. I say that, in the circumstances, I wish to compound the case and get the issue resolved. I say that, I do not wish to prosecute the applicants/accused any further with respect to issue involved in the manner as we have settled all issues mentioned in the FIR and are having harmonious & cordial relations.

6. I say that, we have mutually & amicably settled our disputes and differences and therefore, I am interested in not pursuing FIR No. I-178/2018 u/s. 420, 406, 465, 467, 568, 471 r/w. Sec. 34 of the I.P.C. registered with the Mahatma Phule Chowk Police Station.

7. I say that I have no objection to grant all reliefs in favour of the Applicant mentioned in the aforesaid petition and I have no objection for

quashing of FIR No. I-178/2018 u/s. 420, 406, 465, 467, 568, 471 r/w. Sec. 34 of the I.P.C. registered with the Mahatma Phule Chowk Police Station, Thane register at my be as the matter is amicably settled.

3. It appears that one of the offence is under Section 467 of IPC. The sentence provided for said offence is of 10 years or in appropriate cases life imprisonment. On perusal of allegations from the FIR in its entirety, the offence under Section 467 of IPC is not disclosed.

4. Respondent No. 2 was present in the Court on 22.02.2021. He stated that it is his voluntary act to settled the dispute with the applicants and join the prayer of applicants for quashing the impugned FIR. Since the Respondent No. 2 does not wish to pursue the allegations in the FIR, the further continuation of the investigation of impugned FIR, would tantamount to the abuse of the process of the law/Court. The chances of conviction of applicants would be remote and bleak.

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 offence arising

¹ 2012 (10) SCC 303

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.

6. In the light of discussion in foregoing paragraphs, to secure the ends of justice and prevent the abuse of the process of the law/Court, the application deserves to be allowed, however, cost deserves to be imposed on the applicants. Hence, we pass the following order:-

ORDER

A) The application is allowed in terms of prayer clause

(a), which reads as under:-

*(a) For writ or an order to quash and set aside
quash FIR No. I-178/2018, registered with Mahatma*

Phule Chowk Police Station, Kalyan, Thane, for the Offences punishable u/s. 420, 406, 465, 467, 468, 471 r/w. Sec. 34 of I.P. C. ;

- B)** The Applicants to deposit Rs. 40,000/- (Rupees Forty Thousand), in the account mentioned herein below, within three weeks from today.

**Name of Bank of Account: : Children Aid Soc
Donation**
Bank Account No. : 02370100005612
Bank Name : UCO Bank
Branch : Matunga Mumbai
IFSC Code : UCBA0000237

- C)** It is made clear that this order will take effect only after depositing the aforesaid amount of cost in the account mentioned herein above.

- D)** Rule made absolute to above extent. The criminal application stands disposed of accordingly.

- E)** List the matter under the caption 'For Compliance' on 15.04.2021 for compliance of directions contained in this order.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)