

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5655 OF 2019

Arvind Shivaji Shinde and ors.

: Petitioners.

Versus

State of Maharashtra and ors.

: Respondents.

Mr. Ritesh Thobde for the Petitioners

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

Mr. Hrishikesh S Shinde for the Respondent Nos.2 and 3

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

DATE : 24th JUNE 2021

P.C.

1 The Petitioners, by this Writ Petition under Article 226 of the Constitution of India and under Section 482 of the Code of Criminal Procedure, seeks the following relief :-

“(a) This Hon’ble Court by invoking writ jurisdiction under Article 226 of the Constitution of India r.w. inherent powers of this Hon’ble Court U/s. 482 of Cr.P.C. may issue appropriate writ, order and/or direction and quash and set aside the impugned First Information Report dated 26.04.2014 registered with Jail Road Police Station vide C.R. No.92/2014 for the offences punishable U/s. 324, 504, 323, 506 & 34 of IPC and all proceedings arising therefrom against the Petitioners.”

2 The learned counsel appearing for the Petitioners and the learned counsel appearing for the Respondent Nos.2 and 3 jointly submit that the parties have amicably settled the dispute, and the impugned FIR No.92 of 2014 registered with Jail Road Police Station and the proceedings arising therefrom

may be quashed and set aside.

3 The 2nd Respondent is present before this Court. We have interacted with Respondent No.2 through video conferencing. On a specific query put to him as to whether he is willing and ready to settle the dispute in question amicably, he replied that it is his voluntary act to enter into the settlement, and he has given his consent to quash the impugned FIR. We have also interacted with Respondent No.3 through video conferencing. He states that he joins the prayer of the Petitioners for quashing the FIR and it is his voluntary act to enter into the settlement. Respondent Nos. 2 and 3 are identified by learned counsel Mr. Hrishikesh Shinde.

4 The 2nd Respondent – Chandrakant Salunkhe has filed his affidavit stating therein that the dispute between him and the Petitioners is amicably settled due to intervention of elders and respectable people of their colony. The Respondent No.2 in Paragraph Nos.2 to 5 of his affidavit has stated thus :-

“2 I say that the dispute between me and the petitioners are amicably settled due to intervention of elders and respectable people of our colony. I state that I do not desire to pursue the present proceeding/prosecution against the Petitioners.

3 I further stay that I have decided to live peacefully and in harmony with the Petitioners and other family members without any hatred or ill-feelings.

4 I say that, I have no objection if the complaint bearing

C.R. No.92/2014 registered at Jail Road Police Station at my behest and all the proceedings subsequent thereto against the Petitioners are quashed.

5 *I am filing this affidavit on my own free will without any fear or pressure or undue influence. As the dispute between me and the petitioners is amicably resolved, I am giving consent for quashing of the F.I.R. lodged by me.*

5 Since the parties have amicably settled the dispute, no fruitful purpose will be served by continuing the further proceedings/investigation in the impugned FIR bearing No.92 of 2014 dated 26.04.2014 registered with Jail Road Police Station, District Solapur for the offences punishable U/s. 324, 504, 323, 506 & 34 of Indian Penal Code.

6 A useful reference can be made to the judgment of the Supreme Court in the case of **Gian Singh Versus State of Punjab and Another**¹, wherein the Supreme Court observed that,

“61But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be

1 2012 (10) SCC 303

caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

7 In view of the settlement of the matter, the possibility of the prosecution resulting in conviction is extremely remote and bleak. In this view of the matter, in order to prevent the abuse of the process of Law/Court and to secure the ends of justice, in our view, it would be appropriate to allow the prayer of the Petitioner for quashing and setting aside the impugned FIR. The Petition is accordingly allowed in terms of prayer clause (a) which reads thus :-

“(a) This Hon’ble Court by invoking writ jurisdiction under Article 226 of the Constitution of India r.w. inherent powers of this Hon’ble Court U/s. 482 of Cr.PC. may issue appropriate writ, order and/or direction and quash and set aside the impugned First Information Report dated 26.04.2014 registered with Jail Road Police Station vide C.R. No.92/2014 for the offences punishable U/s. 324, 504, 323, 506 & 34 of IPC and all proceedings arising therefrom against the Petitioners.”

8 The Writ Petition is disposed of accordingly.

[N. J. JAMADAR, J]

[S. S. SHINDE , J]