

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

**CRIMINAL APPLICATION NO.1584 OF 2019**

1. Jagdish Harchand Punjabi  
2. Samrjit Jagdamba Shukla

... Applicant

Vs.

1. State of Maharashtra  
2. Bharati Rajkumar Gulwani

... Respondents

Mr.P.V. Nichani with Ms.Sayali Puri and Samruddhi Warang for the Applicant

Ms.M.H. Mhatre, APP, for Respondent – State

Mr.Devendra Singh for Respondent No.2

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

**DATED: FEBRUARY 26, 2021**

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

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

2. This Application is filed for the following substantive reliefs:

“a) That this Hon’ble Court be pleased to invoke its power under section 482 of Code of Criminal Procedure and quash and/or set aside the FIR bearing No.444 of 2018, registered by the Vakola Police Station at Mumbai.

b) That this Hon'ble Court be pleased to invoke its power under section 482 of Cr.P.C. and quash and / or set aside Case No.1280/PW/2019 pending before Metropolitan magistrate, 71<sup>st</sup> Court at Bandra."

3. Learned Counsel appearing for the applicants and Respondent No.2 submits that the applicants and Respondent No.2 have amicably settled the dispute. The learned Counsel appearing for Respondent No.2 has tendered across the bar consent affidavit; the same is taken on record. It would be apt to reproduce hereinbelow paragraphs 1 and 2 of the said consent affidavit as under:

"1. I say that the applicant is my real brother. I say that along with my other sisters, there was a dispute with respect to a shop premises against my brother and in the said skirmish inadvertently there happened to be an offence committed by the Applicant herein which I realised later that the alleged offence happened without any intention. I say that I had filed C.R. No.444 of 2018 on Dt.04/11/2018 at Vakola Police Station with respect to the alleged offence being the subject matter of the present Criminal Application.

2. I say that the Applicant abovenamed has filed quashing petition under section 482 of Criminal Procedure Code on the basis of the memorandum of Settlement/Understanding that has taken place between the Applicant, myself and other sisters who are the siblings of the Applicant and respondent no.2 herein. I say that by virtue of the said arrangement, myself and the Applicant have decided to withdraw the case against each other and hence pursuant to the same, I do hereby grant my consent for quashing of C.R. No.444 of

2018 which is the subject matter of the present Criminal Application.”

4. Respondent No.2 is present. She has stated that it is her voluntary act without any coercion to arrive at an amicable settlement with the applicants. She stated that in view of the settlement, the impugned First Information Report may be quashed.

5. Respondent No.2 is the real sister of applicant No.1. Since the Applicants and Respondent No.2 have amicably settled the dispute and Respondent No.2 has joined the prayer of the applicants for quashing the impugned FIR, no fruitful purpose will be served by continuing the investigation of C.R. No.444 of 2018 registered with Vakola Police Station, Mumbai. In view of the settlement, the chances of conviction of the applicants would be bleak and remote.

6. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**<sup>1</sup> has held that the criminal cases having overwhelmingly and predominatingly civil flavour stand on a different footing for the purposes of quashing, particularly the

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1 2012 (10) SCC 303

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 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.

7. In view of the amicable settlement, keeping in view the consent affidavit filed by Respondent No.2 and in order to secure the ends of justice and prevent abuse of the process of Court, the Application deserves to be allowed. Accordingly, the Criminal

Application is allowed in terms of prayer clauses (a) and (b), which read as under:

“a) That this Hon’ble Court be pleased to invoke its power under section 482 of Code of Criminal Procedure and quash and/or set aside the FIR bearing No.444 of 2018, registered by the Vakola Police Station at Mumbai.

b) That this Hon’ble Court be pleased to invoke its power under section 482 of Cr.P.C. and quash and / or set aside Case No.1280/PW/2019 pending before Metropolitan magistrate, 71<sup>st</sup> Court at Bandra.”

8. The parties shall strictly abide by the consent terms.

9. Rule is made absolute in the aforesaid terms. Criminal Application stands disposed of accordingly.

**(MANISH PITALE, J.)**

**(S.S. SHINDE, J.)**

Vishwanath S. Sherla  
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signed by  
Vishwanath S. Sherla  
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