

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

Amk

WRIT PETITION NO. 6280 OF 2019

Mr. Ashwin Natwarlal Sheth & Ors. .. Petitioners
Vs.
The State of Maharashtra & Ors. .. Respondents

Mr. Raju M. Yamgar a/w. Mr. Akshay Bhalerao for the Petitioners.
Ms. Priyanka Chavan for Respondent Nos.2 & 3.
Mrs. M. H. Mhatre, APP for the Respondent-State.

CORAM : S. S. SHINDE & MANISH PITALE, JJ.
DATE : 4th MARCH, 2021.

P. C. :

1. Rule. Rule made returnable forthwith and heard with the consent of learned Counsel appearing for the parties.
2. This Petition is filed with the following prayer Clause (a) which reads as under:

(a) That this Hon'ble Court be pleased to issue appropriate writ, order or direction and to quash and set aside FIR lodged by Respondent No.2 bearing C.R. No. 518 of 2019 registered with Dahisar Police Station, Mumbai u/s. 420, 406, 34 of the Indian Penal Code and Section 4(1), 4(1A), 7 and 13(1)(2) of Maharashtra Ownership of Flats Act, 1963.

3. Learned Counsel appearing for the Petitioners and 2nd Respondent submits that the parties have amicably settled the dispute. 2nd Respondent has filed the affidavit. Paragraph 5 of the said affidavit reads as under:

5. I say that in view of the amicable settlement of disputes between the Parties, the Respondent no. 2 & 3, do not desire to pursue the present prosecution against the Petitioners and, therefore, I as Respondent no.2 on behalf of Respondent no.3 company have no objection for allowing the prayers of the Petitioners in the present Petition, and hereby give consent for quashing of FIR registered with Dahisar Police Station C.R. No. 518/2019 u/s. 420, 406, 34 of the IPC and u/s. 4(1), 4(1A), 7, 13(1)(2) of MOFA.

4. In the affidavit filed by 2nd Respondent details in respect of settlement arrived at between the parties are mentioned.

5. This Court on 25.02.2021 recorded statement of 2nd Respondent that it is voluntary act of 2nd Respondent to enter into the settlement and give consent for quashing of FIR.

6. Since the parties have amicably settled the dispute and 2nd Respondent does not wish to proceed against the Petitioners, no fruitful purpose would be served by continuing the investigation in FIR No.518 of 2019 registered with Dahisar Police Station, Mumbai for the offence punishable under Sections 420, 406, 34 of the Indian Penal Code and Section 4(1), 4(1A), 7 and 13(1)(2) of the Maharashtra Ownership of Flats Act, 1963.

7. The Supreme Court in the case of **Giansingh v. State of Punjab and Another**¹ has held that, the criminal cases having

¹ 2012 (10) SCC 303

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 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 the light of the discussion in foregoing paragraphs in order to secure the ends of justice and prevent the abuse of the process of Court, the Petition deserves to be allowed in terms of prayer Clause (a) which is reproduced in paragraph 3 above.

9. Accordingly, the FIR No.518 of 2019 is quashed subject to depositing costs of Rs.1,00,000/- (Rupees One Lakh only) by the Petitioners in A/c.02370100005612 of Child Aid Society Donation in UCO Bank, Branch-Matunga, Mumbai, IFSC Code-UCBA0000237 within four weeks from today.

10. We make it clear that unless the said amount is deposited, this order will not take effect.

11. The Writ Petition is allowed. Rule made absolute on above terms.

12. List the Petition on 09.04.2021 under the caption 'for compliance' of the aforesaid direction of depositing the costs.

[MANISH PITALE, J.]

[S. S. SHINDE J.]

Arjun
M.
Kadam

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signed by
Arjun M.
Kadam
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