

Vishwanath
S. Sherla

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

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CRIMINAL APPELLATE SIDE

CRIMINAL WRIT PETITION NO.6318 OF 2019

Purshottam Jagdish Kurdia & others

... Petitioners

Vs.

State of Maharashtra & another

... Respondents

Mr.P.A. Bhise for the Petitioners

Mr.Rakesh Agrawal for Respondent No.2

Respondent No.2 – present

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

DATED: FEBRUARY 11, 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. Learned Counsel appearing for the petitioners and Respondent No.2 submit that the parties have amicably settled the dispute and to that effect, consent terms are filed before the

Sessions Court at Bombay. On the basis of the consent terms, it is submitted that Respondent No.2 has voluntarily consented to quashing of the impugned First Information Report and the pending proceedings before the Sessions Court.

3. Respondent No.2 has filed a reply / consent affidavit which states as under:

“1. I say that I receive the present Petition filed by Mr.Purshottam Kurdia. I have gone through the contents of the said Petition and in reply thereto I have to state as under:

2. I say that after the filing of FIR, the matrimonial dispute between me and the Petitioner has been settled and as such we have filed the consent terms at Exhibit b to the Petition. Since the matter has been amicably settled between me and the Petitioner, I have given an undertaking and I have agreed to withdraw the allegations against the Petitioner in the FIR filed by me against them. I say that I am executing the affidavit giving no objection to FIR no.290 of 2015 dated 29.10.2015 on the file of Nehrunagar Police station.

3. I am filing this affidavit in due compliance to my undertaking given to the Hon’ble Sessions Court.”

4. Learned Counsel appearing for the Petitioners and Respondent No.2 jointly submit that since the parties have settled the dispute amicably, the impugned First Information Report No.290 of 2015 dated 29.10.2015 filed by Respondent No.2 with the Nehru Nagar Police Station and the subsequent proceedings

arising out of the said First Information Report be quashed and set aside.

5. We have perused the affidavit filed by Respondent No.2 as also the consent terms filed arrived at between the parties.

6. Respondent No.2 is present before the Court. We have interacted with her and she has stated that it is her voluntary act to enter into such settlement and prayed for quashing the impugned FIR and the proceedings before the Sessions Court. Thus, it is clear that she is not going to appear in the said proceedings and hence, in our view, further continuation of the said proceedings would be an exercise in futility and would tantamount to abuse of process of the Court.

7. 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 offences arising out of matrimony relating to dowry, etc. or the family disputes where the

1 2012 (10) SCC 303

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 hereinabove, in order to secure the ends of justice and to prevent abuse of process of Court, we are inclined to allow the petition. Accordingly, the petition is allowed in terms of prayer clause (a), which reads as under:

“(a) That by the consent of the Petitioners and Respondent No.2, this Hon’ble Court be pleased to quash and set aside the F.I.R. No.290 of 2015 dated 29.10.2015 filed by the Respondent No.2, standing on the file of Nehru Nagar Police Station and this Hon’ble Court be pleased to quash chargesheet filed in said FIR;”

9. Rule is made absolute in the above terms.
10. Writ Petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)