

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

CRIMINAL WRIT PETITION NO. 5507 OF 2018

Ms. Rachana Sharma
Age:- Adult, Occ.: Business
Residing at Horizon Flat No. 30L
3rd Floor, Plot No. 285,
5th Road, Chembur (East).

...PETITIONER

Versus

1. The State of Maharashtra
Through Govandi Police Station
Govandi, Mumbai 400 088.

2. Smt. Priti R. Raghu,
Aged about 43 years, Occ.: Housewife,
Residing at Hejal 702,
Rozwood Heights, Tharwani,
Sector 10, Kharghar,
Navi Mumbai.

...RESPONDENTS

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Mr. Karansingh B. Rajput for Petitioner.
Mr. J P Yagnik, APP for Respondent No. 1-State.
Mr. Mayur C. Shikhare for Respondent No. 2.

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

DATE : 3rd MARCH, 2021.

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

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

2. Learned counsel for petitioner and 2nd respondent submits that the parties have amicably settled the dispute and to that effect Respondent No. 2 has filed the affidavit. Paragraphs 1 to 3 of the said affidavit read as under:-

1. I say that as per the terms of settlement dated 11th March, 2020 arrived between the Petitioner and myself. I have paid the entire amount to the Petitioner on 31st March, 2020.

2. I say that thereafter, the same Hyundai Eon Magna + (O) petrol car which I booked from R Square Hyundai Dealership was registered in my name. I say that the Registration No. of the said Vehicle is MH 46 BQ 7163.

3. I say that I do not have any Objection if this Hon'ble Court quash the FIR No. 237 dated 11/10/2018 against the Petitioner.

3. The parties are identified by their respective advocates. Respondent No. 2 is present in the Court. She stated that it is her voluntary act without any coercion to enter into the settlement. Her grievance is satisfied. She stated that she has no objection for quashing the impugned FIR so far as present petitioner is concerned.

4. Mr. J P Yagnik, learned APP appearing for State has tendered across the bar report submitted by Senior Police Inspector, Govandi Police

Station, Mumbai addressed to Public Prosecutor, High Court, Mumbai, the same is taken on record and marked as 'X' for identification. Learned APP on instructions submits that there are no criminal antecedents against the present petitioner. There are other two co-accused and this settlement is restricted only to the present petitioner.

5. Since the 2nd respondent has filed affidavit and stated before this Court that she does not wish to proceed against the petitioner, no fruitful purpose will be served by continuing the further proceedings arising out of FIR bearing No. 237 of 2018 registered with Govandi Police Station on 11th October 2018, for the offences punishable under section 420 and 34 of IPC. The further continuation of the aforesaid proceedings would amount to the abuse of the process of the Court.

6. The Supreme Court in the case of Giansingh v. State of Punjab and Another¹ 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 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

1 2012 (10) SCC 303

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 the light of discussion in foregoing paragraphs, to secure the ends of justice and prevent abuse of the process of the concerned Court the petition deserves to be allowed. Accordingly, the writ petition is allowed in terms of prayer clause (a), which reads as under:-

a) That this Hon'ble Court may be pleased to invoke its writ jurisdiction as well as inherent jurisdiction to quash and set aside an FIR bearing No. 237 of 2018 registered with Govandi Police Station on 11th October 2018 along with chargesheet filed with metropolitan magistrate, 57th court kurla, mumbai on 16/08/2019.

8. The writ petition stands disposed of accordingly.

(MANISH PITALE, J.)

(S. S. SHINDE, J.)