

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

CRIMINAL APPLICATION NO. 191 OF 2022

1. Bhushan Pravin Bhandarkar
Age. 30 years, Occ. Business.
2. Pravin Manohar Bhandarkar
Age. 53 years, Occ. Service.
3. Prasad Ravindra Bhandarkar
Age 31 years, Occ. Business,
All are R/at: 578/17, behind Akash
Cinema, Dugad Brothers Chawl, Kurla,
West Mumbai- 070. ...Applicants.

Versus

1. The State of Maharashtra
(At instance of Kurla Police Station)
2. Dilip Hastimal Jain
Age-42 years, Occu. Business,
R/at: 602, 6th Floor, Shradha CHS Ltd.
Ganesh Buag Lane, Belgrami Road,
Kurla (W), Mumbai 400 070. ...Respondents

...

Mr. Mukesh Gupta for Applicant.
Ms. Gulestan M. Dabash i/b Mr. Pradeep Jain for Respondent No.2.
Ms. S. D. Shinde, APP for Respondent/State.
Respondent No.2 present in Court & interacted.

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**CORAM : S. S. SHINDE &
N. R. BORKAR, JJ.**

DATE : 24th FEBRUARY, 2022.

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

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

2. Learned counsel appearing for the applicants and 2nd respondent jointly submits that the parties have amicably settled the dispute and pray for quashing the impugned FIR. .

3. It is submitted that the incident had occurred out of misunderstanding and on trifle ground, and in order to maintain peace and harmony as also cordial relation, the applicants and 2nd respondent have decided to bury the differences and to lead the peacefully life in the area where their shops are situate.

4. The 2nd Respondent has filed his affidavit in paragraphs Nos. 4 to 7 of the said affidavit reads as under:-

‘4. I say and submit that the differences between the Applicants and myself have been settled amicably without any undue influence, coercion, pressure on me and I am giving this affidavit voluntarily and on my own will for quashing of Criminal Complaint filed by me against the Applicants which is pending before Ld. Trial Court, Kurla.

5. I say and submit that in view of the amicably settlement, I do not want to continue with the present case and I do not wish to pursue my Complaint being C.C. No. 1525/PW/2017 in C.R. No. 235 of 2017 registered with Kurla Police Station, Mumbai against the Applicants for offences u/s. 452, 504, 323, 506(2), 34 of IPC.

6. I say and submit that I have no objection if this Hon’ble Court allows the present criminal Writ Petition of the Applicants and quashed the proceedings

pending before the Ld. Magistrate Court at Kurla, Mumbai C.C. No. 1525/PW/2017 in C.R. No. 235 of 2017 registered with Kurla Police Station, Mumbai against the applicants for offences u/s. 452, 504, 506(2), 34 of IPC.

7. I further says that I future having no dispute between us and therefore, I am giving my consent to settle the matter amicably.'

5. The 2nd Respondent present before this Court. He is identified by his advocate. On a specific query being put to 2nd respondent, he stated that he has filed his affidavit on his own will without any coercion or pressure. He further stated that he has no objection to the prayer of the applicants being granted.

6. Since the parties have amicably settled the dispute, and dispute arose between them appears to be personal in nature, no purpose will be served by continuing proceeding pending before the said Court, and continuation of said proceeding would be exercised in futility and would tantamount the abuse of process of the Court.

7. 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

¹ 2012 (10) SCC 303

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 discussion in foregoing paragraphs and 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 clause of the Applicant for quashing and setting aside the impugned FIR. The application is allowed in terms of prayer clause (b), which read thus-

“b. That this Hon’ble be pleased to kindly quash the Chargesheet/criminal complaint bearing C.C. No. 1525/PW/2017 pending in C.R. No. 235 of 2017 registered

with Kurla Police Station, Mumbai for offences u/s. 452, 504, 506(2), 323, 34 of IPC registered with Kurla Police Station, Mumbai against the Applicants.”

(i) Rule is made absolute to the above terms, subject to depositing amount of Rs.10,000/- by the applicants with the Children's Aid Society, Mumbai within three weeks from today in the account number given herein below.

Bank Name:	UCO Bank
Branch Name:	Matunga, Mumbai
A/c. Name:	Children Aid Society
Account No.	02370100005612
IFSC Code:	UCBA0000237

In turn the Children's Aid Society, Mumbai shall transfer the said costs for betterment of the children to the New & Additional Children's Home, Mankhurd, Mumbai.

(ii) The application stands disposed of accordingly.

(N. R. BORKAR, J.)

(S. S. SHINDE, J.)