

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1016 OF 2021

Lalit Dharmani)
Age-46 years, Indian Inhabitant,)
Partner in M/s. Pinaki Projects,)
A Partnership Firm registered under the)
provisions of Indian Partnership Act, 1932)
Having registered office address at 701,)
Origin 108, Kumbharwada,)
Off Sion Trombay Road, Chembur,)
Mumbai 400 071) ... Applicant

Vs.

1. State of Maharashtra)
At the instance of Senior Police Inspector)
Chembur Police Station, Mumbai.)
2. Shravan Ravindra Agarwal)
Adult Indian Inhabitant, having address at)
Room No.415, Mahendra Chambers,)
V. T. Patil Marg, Chembur, Mumbai-400 071)
Also having his address at-)
Plot No.235, Vijay Bhavan, 10th Road,)
Near Axis Bank, Chembur, Mumbai-400 071.) ... Respondents

Ms. Deepa Pohuja for Applicant.

Ms. S. D. Shinde, APP for Respondent No.1-State.

Ms. Kausar Bantawala i/b. Mr. Tushar Goradia for Respondent No.2.

Applicant and Respondent No.2 present in person.

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

DATE : FEBRUARY 25, 2022

ORAL JUDGMENT : (Per S. S. Shinde, J.)

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

2. It is not necessary to advert to the facts of the case since the parties

have amicably settled the dispute and to that effect, the consent affidavit has been filed before this Court by the second respondent as also consent terms have been filed before the the City Civil Court in pending proceedings between the parties.

3. Second respondent - the original informant as also the applicant are present before this Court. They are identified by their respective counsel. When we interacted with the second respondent, he stated that it is his voluntary act to enter into the settlement and give his consent for quashing the impugned FIR. He further stated that he has filed the affidavit on his own free will and without coercion.

4. Ms. Shinde, learned APP, on instructions received from the concerned Investigation Officer, submits that initially only Section 341 of the Indian Penal Code (IPC) was invoked. However, subsequently, Sections 447, 454, 457 and 380 IPC are added.

5. Since the parties have amicably settled the dispute and genesis of the entire controversy arises out of civil dispute, it is not necessary to reproduce the averments in the consent affidavit. The said consent affidavit is already taken on record. Though Section 380 IPC is mentioned in the FIR, from the interaction with the first informant, we are satisfied that in real sense the ingredients of Section 380 IPC would not attract in the present case.

6. In the light of the discussion in foregoing paragraphs, it is abundantly clear that the second respondent is not going to support the prosecution case and the chances of conviction of the applicant would be remote and bleak.

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 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 aforesaid discussion and in order to secure ends of justice and prevent the abuse of process of law / Court, the application deserves to be allowed and the First Information Report bearing C.R.No.424 of 2021 dated 9th June 2021 registered at Chembur Police Station, Mumbai is quashed and set aside subject to depositing Rs.25,000/- by the applicant within two weeks from today in the following bank account:-

¹ 2012 (10) SCC 303

Name of Bank of Account : Children Aid Soc Donation
Bank Account No. :02370100005612
Bank Name : UCO Bank
Branch : Matunga Mumbai
IFS Code : UCBA0000237

On deposit of costs of Rs.25,000/- by the applicant in the aforesaid bank account, the Children Aid Society, Mumbai shall immediately transfer the said amount of costs for betterment of the children to the New and Additional Children's Home, Mankhurd, Mumbai.

9. Rule is made absolute to the above extent and the Criminal Application No.1016 of 2021 stands disposed of accordingly.

(N. R. BORKAR, J.)

(S. S. SHINDE, J.)

Minal Parab