

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

CRIMINAL APPLICATION NO. 971 OF 2021

Sanjay Shridhar Mishra
Age: 55 years, Occ: Nil,
R/a. Flat No. 84, Bldg No. 3
Vijay Enclave, Waghbil Corner
Ghodbandar Road, Thane

...Petitioner

Versus

1. Mrs. Rupali Santosh Dhanawade
Age: 40 years, Occ: Business,
R/a. Flat No. 32, Bldg No.3,
Vijay Enclave, Waghbil Corner,
Ghodbandar Road, Thane.

2. The State of Maharashtra
(At the instance of Kasar Wadavli
Police Station, Thane.)

...Respondents

...

Mr. Rahul P. Walvekar, for Applicant.
Mr. S. S. Yadav for Respondent No.1.
Ms. M.H. Mhatre, APP for State.
Applicant present in Court.
Respondent No.1 present in Court.

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

DATE : 23rd FEBRUARY, 2022.

ORAL JUDGMENT :

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

2. This application is filed alongwith following substantive prayers:-

a) This Hon'ble Court by exercising the powers u/s. 482 of Code of Criminal Procedure be pleased to quash F.I.R. being C.R. No. 0220 of 2021 registered with Kasarwadavli Police Station, Thane under Section 427 and 435 of Indian Penal Code, 1860 at the instance of Respondent No.1 against the Applicant, in the interest of justice;”

3. At the outset, Learned counsel appearing for the petitioner and contesting respondents jointly submits that the parties have amicably settled the dispute and to that effect respondent No.1 has filed affidavit.

4. 1st respondent is present before this Court. She is identified by her advocate. She stated that it is her voluntary act to enter into such settlement and give consent for quashing the impugned FIR.

5. The applicant is present before this Court. He stated that dispute between him and Respondent No.1 is settled.

6. In view of settlement arrived at between the parties, no fruitful purpose will be served by continuing the further investigation of FIR No. 0220 of 2021 registered with Kasarwadavli Police Station, Thane for the offence punishable under sections 427 and 435 of the IPC.

7. Respondent No.1 in paragraphs No. 2 to 4 of her affidavit in reply stated thus:

“2. I state that I have gone through the copy of the Application and I agree with the fact that the above stated dispute is amicably settled between the Applicant and me, in view of an agreement dated 24/10/2021 which is duly notarized. And which is at Exhibit B of the Application. I say and submit that, as per agreement I have received an amount of Rs. 7,50,000/- towards the payment to be made for new car.

3. I state and submits that in view of the said facts, it would save the precious time and effort of the Hon’ble Court, if the F.I.R. being C.R. No. 0220 of 2021 registered with Kasarwadavli Police Station, Thane under Section 427 and 435 of IPC is quashed.

4. I state that I have no objection if the F.I.R. being C.R. No. 0220 of 2021 registered with Kasarwadavli Police Station, Thane under Section 427 and 435 of IPC is quashed.”

8. 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 criminal proceedings if in its view, because of the compromise

¹ 2012 (10) SCC 303

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.

9. Since the parties have amicably settled the dispute and grievance of the respondent No.1 has been satisfied, there is no point in continuing with the further investigation which would unnecessarily consume valuable time of the investigation machinery. In that view of the matter application deserves to be allowed.

10. At this stage, learned counsel appearing for the applicant, on instruction of the applicant who is present in the Court, makes a statement that the applicant will deposit Rs, 25,000/- for the benefit of children.

11. In the light of above, we pass the following order:

- (i) The Criminal Application is allowed in terms of prayer clause (a), subject to depositing amount of Rs.25,000/- by the applicant with the Children's Aid Society, Mumbai within two 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.)