

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

CRIMINAL APPLICATION NO. 1337 OF 2021

Mrs. Daksha Kunal Mayekar
Age: 21 years, Occ: Service
Residing at 14-B, Konkan Nagar Lt,
Dilip Gupta Road, Mahim,
Mumbai-400 016.

...Petitioner

Versus

1. The State of Maharashtra
Through Goregaon Police Station.

2. Mr. Datta Maruti Gurle
Age: 54 years, occ: Residing at
Room No.9, Kranti nagar, Kolsevadi Chawl,
Behram Baugh Road, Jogeshwari (West),
Mumbai 400 102

...Respondents

...

Mr. Viral Rathod i/b Mr. Paresh V. More for Applicant.
Mr. Nemeel Mehta for Respondent No.2.
Ms. S. D. Shinde, APP for State.
Applicant present in Court.
Respondent No.2 present in Court.

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

DATE : 23rd FEBRUARY, 2022.

ORAL JUDGMENT.:

1. At the outset, learned counsel for the petitioner seeks leave to amend the prayer clause (A). Leave granted. Amendment to be carried out forthwith.

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

3. Learned counsel for the applicant and 2nd respondent jointly submits that the parties have amicably settled the dispute. Learned counsel appearing for the 2nd respondent has tendered the across bar, affidavit in reply on behalf of respondent No.2, same is taken on record.

4. Respondent No.2 is present before this Court. He stated that it is voluntary act to enter into such settlement and give consent for quashing the FIR. He submits that he has received amount of compensation from the applicant as amount in MACT proceeding and he has no objection for quashing the impugned FIR. Paragraphs 2 to 5 of his affidavit reads as under:-

“2. I say that after filing of the FIR much water has been flown from the date of the registration of the FIR, I have buried over my differences with the Applicant and have voluntarily reached an amicable settlement out of Court with the Applicant. I say that I have received on 23.02.2022 a sum of Rs. 1,25,000/- in cash from the Applicant towards the compensation in addition to the compensation of Rs. 93,192/- received in MACT proceedings and the said MACT proceedings is settled too.

3. I say that considering the young age of the Applicant and her future I am not desirous of continuing with the criminal proceedings against her and have therefore decided to put an end to the criminal proceedings in CR No. 524 of 2017.

4. I say that contents of the FIR and charge

sheet are not been substantiated and in any case in view of this affidavit and also out of the amicable settlement. I say that the FIR and chargesheet is now devoid of any force and I have no objection if the FIR, Chargesheet and criminal proceedings bearing Police Case No. 574/PS/2018 be quashed against the Applicant.

5. I say that I have no objection if the FIR, Chargesheet and criminal proceedings bearing Police Case No. 574/PS/2018 pending on the file of 67th Metropolitan Magistrate Court at Borivali Mumbai be quashed against the Applicant.”

5. In view of the amicable settlement arrived at between the parties, no fruitful purpose will be served by continuing the further investigation of FIR No. 524 of 2017 registered with Goregaon Police Station, Mumbai for the offences punishable under Sections 279, 337, 338 and 427 of the IPC.

6. In case said proceedings are continued, would amount to exercise in futility since the chances of the conviction of the applicant would be bleak. The Supreme Court in the case of **Giansingh vs. 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

¹ 2012 (10) SCC 303

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.

7. 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 of the Applicant for quashing and setting aside the impugned FIR. Accordingly, we pass the following order:

- (i) The Criminal Application is allowed in terms of prayer clause (A) and the Criminal Proceedings in Police Case No. 574/PS/2018 pending on the file of 67th Metropolitan Magistrate Court, Borivali, Mumbai and Police Case No. 574/

PS/2018 in connection with CR No. 524 of 2017 against the Applicant registered at Goregaon Police Station, Mumbai for the offence punishable under sections 279, 337, 338 and 427 of the Indian Penal Code, is quashed and set aside.

8. Application stands disposed of accordingly.

(N. R. BORKAR, J.)

(S. S. SHINDE, J.)