
(2021) 03 BOM CK 0037

In the Bombay High Court

Case No : Criminal Application No. 1577 Of 2019

Anuj Kumar Arun Thakur And Others

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 31-03-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 420

Citation : (2021) 03 BOM CK 0037

Hon'ble Judges : S. S. Shinde, J; Manish Pitale, J

Bench : Division Bench

Advocate : Zaid Qureshi, Omneel A. Jadhav, V.B. Konde Deshmukh

Final Decision : Allowed

Judgement

Manish Pitale, J

1. This is an application filed by the Applicants for quashing of F.I.R. registered against them, on the basis of consent given by Respondent Nos.2 and 3. The Respondent No.2 is the original complainant and it is upon his complaint that F.I.R. stood registered against the Applicants. Upon completion of investigation, charge-sheet is also filed.

2. The F.I.R. was registered on 22nd April, 2019 for the offence under Section 420 read with 34 of Indian Penal Code and charge-sheet was filed on 25th June, 2019 for the said offence against the Applicants.

3. It appears that the grievance of the Respondent No. 2 was that the Applicants had promised to facilitate employment for him abroad and that they had not been able to abide by their promise. It appears that the Respondent No. 3 also had a similar grievance. After filing of charge-sheet, the Applicants and Respondent No.2 as also Respondent No.3 settled their dispute and it is on the basis of such settlement of dispute that the Respondent Nos.2 and 3 filed affidavits giving consent for quashing of F.I.R.. The Applicants have filed the said affidavits of Respondent Nos.2 and 3 alongwith the Application at Exhibit "B".

4. On 17th February, 2020, Respondent Nos.2 and 3 were present before this Court alongwith their Counsel and they gave no objection to the prayers of the Applicants for quashing of F.I.R. and charge-sheet. The Applicants were also present with their Counsel in the Court. On the said day, this Court recorded in the order that one Mr. Parag Desai has also tendered affidavit stating that he had no objection for quashing of proceedings and to that effect affidavit of said person was also tendered. The said Mr. Parag Desai had a grievance similar to that of Respondent Nos. 2 and 3. This Court adjourned the application directing the State to verify antecedents of the Applicants.

5. This application was then heard on 25th March, 2021 when the learned APP made a statement that there were no criminal antecedents of the Applicants before this Court.

6. A perusal of the affidavits filed by Respondent Nos. 2 and 3 and also Mr. Parag Desai would show that their grievances have been addressed and that they no longer have any cause for complaint against the Applicants. The Applicants and Respondent Nos. 2 and 3 as also Mr. Parag Desai have amicably settled their inter-se dispute and on that basis, they have given consent for quashing of the F.I.R. and the charge-sheet. It is specifically stated by Respondent Nos. 2 and 3 as also Mr. Parag Desai that they have tendered the said affidavits on their own free will and without any coercion from anybody.

7. The Hon'ble Supreme Court in the case of Giansingh v. State of Punjab and Another 1 2012 (10) SCC 303 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. Applying the ratio of the said judgment to the facts of the present case, it can be said that since the dispute between the Applicants on one hand and Respondent Nos. 2 and 3, also Mr. Parag Desai on other hand was essentially of a personal nature, the F.I.R. can be quashed on the basis of consent affidavits filed by the said parties. It is evident that none of the said parties would be supporting the allegations made against the Applicants and that therefore

continuance of further proceedings in the matter would be of no consequence.

9. In view of above, the application is allowed in terms of prayer clause (a), which reads as follows :

"(a) This Hon'ble Court be pleased to quash the entire proceedings arising out of C.R. No. 100 of 2019, qua the present Applicants, registered with Chitalsar Police Station, Pune dated 22/04/2019 for offence punishable under Section 420 read with 34 of Indian Penal Code lodged by Respondent No.2 and any further proceedings thereof."

10. The Charge-sheet bearing No. 85 of 2019 submitted in pursuance of aforesaid C.R. No. 100 of 2019 also stands quashed.

11. The Application stands allowed in above terms.