

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.5946 OF 2017

1. Sagar Ishwar More,
Age 23 years, Occu. Education,
2. Ratnabai Ishwar More,
Age 45 years, Occu. Household,

Both R/o Bhim Nagar, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon. ... **Applicants**

Versus

1. The State of Maharashtra
Through Police Station Officer,
Chalisgaon City Police Station, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon.
2. Madhuri Anil Jadhav,
Age 17 years, Occu. Nil,
Through Guardian -
Surekha Anil Jadhav,
Age 35 years, Occu. Household,
R/o Bhim Nagar, Chalisgaon,
Tal. Chalisgaon, Dist. Jalgaon. ... **Respondents**

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Mr. S.P.Brahme, Advocate for Applicants
Mr. V.M.Kagne, APP for Respondent No.1 - State
Mr. A.R.Syed, Advocate for Respondent No.2

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**CORAM : S.S.SHINDE AND
MANGESH S. PATIL, JJ.**

**RESERVED ON : 17th November, 2017
PRONOUNCED ON : 29th November, 2017**

JUDGMENT : (Per Mangesh S. Patil, J.) :-

Rule. The Rule is made returnable forthwith. Heard finally with the consent of learned advocate for the Applicants, learned APP for Respondent No.1-State and learned advocate for Respondent No.2.

2. This is an application invoking the inherent powers of this Court under Section 482 of the Criminal Procedure Code for quashing F.I.R. bearing C.R.No.136 of 2017 under Sections 307, 323, 504 read with 34 of Indian Penal Code registered with Chalisgaon City Police Station, Chalisgaon, District Jalgaon.

3. We have heard the learned Advocate for the applicants who has submitted that the alleged incident has occurred as a result of the fact that the marriage between Applicant No.1 and Respondent No.2 was not materialized since she was under age. The complaint was lodged when Respondent No.2 was hospitalized with the allegation that the applicants had administered phenyle to her. According to the learned Advocate, the

elderly persons from the neighbourhood have intervened and have brought about an amicable settlement. Respondent No.2 was provided medical treatment at the expenses of the applicants and the dispute has been amicably settled between the parties and thus making the applicants to face the prosecution would be sheer abuse of process of law and would be an exercise in futility.

4. The learned Advocate for Respondent No.2 supported the submission of the learned Advocate of the applicants and requested to allow the application by quashing the crime registered with the police.

5. The learned APP requested to pass suitable order.

6. We have carefully perused the affidavits of the mother of Respondent No.2 and also the affidavit of Respondent No.2 herself. They have specifically stated that they have executed these affidavits without any influence and of their free will. They have stated that they belong to the same caste as that of the applicants. The applicants have provided the expenses of the

medical treatment and they wish to maintain peace and harmony in the neighbourhood.

7. In this respect, we deem it appropriate to refer to the following observations in the case of **Gian Singh Vs. State of Punjab and another** reported in [(2012) 10 SCC page 303] held thus :

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. 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. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim’s family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences

arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In the light of these principles, if we examine the matter in hand it is clear that the crime has been registered as a result of some animosity being harboured by the parties due to fall out of the marriage between Applicant No.1 and Respondent No.2 and since they reside in the same neighbourhood. The dispute is mere in the nature of a personal animosity. In our view, to secure the ends of justice and to prevent the abuse of the process of the Court and when the criminal process that is to ensue would be a sheer abuse of the process,

we are satisfied that this is a fit case to quash and set aside the crime registered with the police on the basis of the amicable settlement arrived at between the parties.

8. In similar set of facts, in the case of ***Narinder Singh and others Vs State of Punjab and Another [2014 (6) SCC 466]***, wherein the decision of *Gian Singh* was followed, a similar view was taken. We find no justifiable, cogent and sufficient reason to take a different view.

9. Hence, the application is allowed. The rule is made absolute in terms of prayer clause 'C'.

(MANGESH S. PATIL, J.)

(S.S.SHINDE, J.)

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vmk/-