

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 228 OF 2018

**SAPNA RAKESH NAIK @ SAPANA SONU
BHAGAT.,**

... Petitioner

Versus

**STATE OF GOA, THR. PUBLIC
PROSECUTOR AND 2 ORS.,**

... Respondents

Mr. Rajneesh Naik, Advocate for the petitioner.

Mr. Pravin Faldessai, Addl. Public Prosecutor for the respondent
no.1

Mr.Siddesh Shet, Advocate for the respondent nos.2 and 3.

Coram:- R. M. BORDE &
PRITHVIRAJ K. CHAVAN, JJ.

Date:- 21st December 2018

P.C.

Leave to amend. Amendment to be carried out forthwith.

2. Application is presented seeking quashment of the proceedings pending in the Court of Judicial Magistrate First Class, Mapusa in Criminal Case No.364/S/2018/C.

3. In pursuance of the informaton tendered by the petitioner herein an FIR bearing No.318/2017 has been registered at Police station Mapusa on 12.9.2017 for offences punishable under Sections 323,343, 498-A read with Section 34 of IPC. After investigation in the matter chargesheet came to be presented and criminal case as stated above is lodged in the Court of Judicial Magistrate First Class, Mapusa. The

complainant herself has approached this Court for seeking quashment of criminal proceedings initiated against her husband and mother in law. It is recorded in the affidavit tendered before this Court that the petitioner does not propose to prosecute the criminal case since she has presented proceedings seeking divorce against the respondent no.2. All the parties i.e complainant and the accused have presented separate affidavits stating therein that parties have settled their differences and they do not want to proceed with the criminal proceedings. In view of the judgment in the case of Gian Singh Vs. State of Punjab reported in (2012) 10 SCC 303, relief as claimed for quashment of criminal proceedings can be granted. The Supreme Court has observed in the judgment at paragraph 61 thus :-

"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-dominantly 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."

4. Parties are present before the Court. They admit the contents of the affidavits presented. Parties have been identified by the respective counsel.

5. In this view of the matter request made by the petitioner as well as respondent for quashment of criminal proceedings deserves to be accepted.

6. For the reasons recorded above, we direct that proceedings before the Judicial Magistrate First Class, Mapusa in Criminal Case No.364/S/2018/C shall stand quashed.

7. Criminal Writ Petition stands disposed of.

PRITHVIRAJ K. CHAVAN, J.

R. M. BORDE, J.