

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 46 OF 2018**

Bhavesh Suresh Juriani and
others

.. Applicants

Vs.

The State of Maharashtra & Anr.

.. Respondents

....

Mr. Sujit S. Mishra Advocate for Applicants
Mrs. G.P.Mulekar A.P.P. for the State
Mr. Sanjay Tiwari i/b Suryakant J. Lavte Advocate for
Respondent No.2

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**CORAM : SMT.V.K.TAHILRAMANI ACTING C.J.
AND M.S.KARNIK, J.**

DATED : FEBRUARY 14, 2018

ORAL ORDER [PER SMT. V.K.TAHILRAMANI, ACJ.]:

1 The applicants are seeking quashing of F.I.R. No.111 of 2014 of Charkop Police Station, Mumbai and the proceedings relating thereto. The said case is under Section 498-A, 406 and 506 read with section 34 of IPC. The said case is pending before the learned Metropolitan Magistrate, 24th Court, Borivali, Mumbai which is numbered at CC No. 2400752/PW/2015.

2 Heard the learned counsel for the applicants - original

accused nos. 1 to 3, learned counsel for the respondent no.2 - original complainant and the learned A.P.P. for the State.

3 The complainant is present before the Court. The complainant has stated that there was a matrimonial dispute between her and the applicant no.1 who was her husband. Applicant nos. 2 and 3 are father-in-law and mother-in-law of the complainant. She has stated that on account of matrimonial dispute, the F.I.R. came to be lodged. She has stated that the matter has been amicably settled between the parties and she does not wish to pursue her case against the applicants. She has also filed an affidavit which is at Exh. F to the petition. She has also tendered copy of her Aadhar Card which is taken on record and marked "X" for identification.

4 Learned counsel for the applicants submitted that in view of the settlement, the case ought to be quashed. Reliance is placed on the decision of the Supreme Court in the case of ***Gian Singh Vs. State of Punjab and another***, reported in ***(2012) 10 S.C.C. 303***. In the said decision in paragraph 45, the Supreme Court has referred to a decision of Five-Judge Bench

of Punjab and Haryana High Court in **Kulwinder Singh and others Vs. State of Punjab and another**, reported in **(2007) 4 CTC 769**. The Five-Judge Bench referred to earlier decisions including the one in the case of **Madhu Limaye Vs. State of Maharashtra** reported in **(1977) 4 SCC 551**, **State of Haryana Vs. Bhajanlal** reported in **1992 Supp (1) SCC 335**, **State of Karnataka Vs. Muniswamy** reported in **(1977) 2 SCC 699**, **Simrikhia Vs. Dolley Mukherjee and Chhabi Mukherjee and another** reported in **(1990) 2 SCC 437** and **B.S. Joshi Vs. State of Haryana and another** reported in **(2003) 4 SCC 675**, and **Ram Lal Vs. State of Jammu and Kashmir**, **(1999) 2 SCC 213**, and framed the following guidelines:

- a. Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.
- b. Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.
- c. Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.
- d. Minor offences as under Section 279, IPC may be

permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remains non-compoundable is Section 506 (II), IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148, IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act No. 17 of 1999 (Section 3) has made Section 506(II) IPC, 147 IPC and 148, IPC compoundable offences by amending the schedule under Section 320, Cr.P.C.

e. The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by Public Servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter-VII (relating to army, navy and air force) must remain non-compoundable.

f. That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair.

While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution."

To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

5 It was observed therein that cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case, can be quashed if there is settlement between the parties. Thereafter in paragraph 57, the Supreme Court has observed that where criminal cases are arising from commercial, financial, mercantile, civil, partnership or matrimonial disputes or family disputes and the parties have resolved their entire dispute, in such category of cases, the High Court may quash the criminal proceedings. The present case falls under the category of settlement in a criminal case arising out of matrimonial dispute, hence, it is clearly covered by the decision of the Supreme Court in the case of **Gian Singh (supra)**.

6 Looking to the fact that the matter has been amicably settled between the parties and looking to the fact that the

complainant does not wish to pursue the case, we are of the opinion that no purpose would be achieved by continuing with the prosecution in the said case. In this view of the matter, CR No. 111 of 2014 of Charkop Police Station, Mumbai and proceedings relating thereto are quashed.

7 Application is allowed and is disposed of in above terms.

M.S.KARNIK, J.

ACTING CHIEF JUSTICE

Kandarkar