

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 90 OF 2018**

Amey Ramesh Shirsekar .. Applicant

Vs.

The State of Maharashtra & Anr. .. Respondents

....

Mr. Virendra V. Pethe Advocate for Applicant
Mr. S.R. Shinde A.P.P. for the State
Mr. Sarang S. Aaradhye Advocate for Respondent No.2

....

**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 applicant is seeking quashing of F.I.R. No. I-249 of 2014 of Vartak Nagar Police Station, Thane. The said case is under Sections 498-A, 323, 504 and 506 of IPC. The case is numbered as RCC No. 465 of 2016 and pending before the Court of Judicial Magistrate, F.C. Thane.

2 Heard the learned counsel for the applicant, learned counsel for the respondent no.2- complainant and learned A.P.P. for the State.

3 The applicant as well as the complainant are present before the Court. The complainant who is present before the Court has stated that the matter has been amicably settled between the parties and she has no objection to the F.I.R. being quashed. She has also tendered affidavit to the above effect along with copy of her Aadhar Card which are taken on record and marked as "**X-Colly.**" for identification.

4 Learned counsel for the applicant 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 Sections 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, F.I.R. No. I-249 of 2014 of Vartak Nagar Police Station, Thane and the proceedings relating thereto are quashed. Application is allowed and is disposed of in above terms.

M.S.KARNIK, J.

ACTING CHIEF JUSTICE