

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

936 CRIMINAL APPLICATION NO. 21 OF 2021

1. Bhaidas Ambar Walvi  
(deleted as per leave granted  
on 4.8.2021)
2. Bokha Damodhar Thakre  
Age 43 years, Occ. Agriculture
3. Railal Onkar Thakre  
Age 50 years, Occ. Agriculture
4. Santosh Bandu Walvi  
Age 40 years, Occ. Agriculture ...Applicants

versus

1. The State of Maharashtra
2. Gopinath Babulal Pawra ....Respondents

.....  
Advocate for Applicants : Mr. Syed Azizoddin R.  
APP for Respondent No.1-State : Mr. Anand S. Shinde  
Advocate for Respondent No.2 : Mr. Mantri Parikshit S.  
.....

**CORAM : V. K. JADHAV AND  
SHRIKANT D. KULKARNI, JJ.  
DATED : 11<sup>th</sup> AUGUST, 2021**

**PER COURT:-**

1. With consent of the parties heard finally at admission stage.
2. This application is filed for quashing of F.I.R. on the ground of settlement arrived at between the parties. The applicants are accused persons alongwith deceased accused Bhaidas Ambar Walvi in connection with crime No. 37 of 2015, presently registered as

R.C.C. No. 27 of 2016 for the offences punishable under Sections 326, 324 r.w. 34 of I.P.C. During pendency of R.C.C. No. 27 of 2016, the parties have arrived at an amicable settlement and filed an application for compounding before the Magistrate. Learned Magistrate by order date 5.2.2020 allowed the compounding of offences to the extent of Sections, 323, 504, 506 of I.P.C., however, refused to grant permission for compounding offences to the extent of Sections 326 and 324 r.w. 34 of I.P.C.

3. Learned counsel for the applicants submits that the parties have arrived at an amicable settlement and respondent No.2-informant has also filed affidavit-in-reply to that effect. Learned counsel submits that it has been alleged in the complaint that the applicants and deceased accused Bhaidas Ambar Walvi, in furtherance of their common intention, made assault on respondent no.2-informant and in consequence thereof, he sustained injuries on his person. Learned counsel submits that it has been alleged in the complaint that deceased accused Bhaidas Ambar Walvi and applicant No.2 Bokha Damodhar Thakre allegedly assaulted the informant with the help of sword and inflicted injuries on his person. Learned counsel has pointed out that so far as the role ascribed to the deceased accused Bhaidas Ambar Walvi is concerned, in connection with his role the informant has sustained grievous injury on his person. So far as the role ascribed to applicant No.2 Bokha is concerned, as per the medico-legal certificate respondent No.2 has

sustained simple injury. So far as applicant Nos. 3 and 4 are concerned, no specific role is ascribed to them.

4. Learned counsel for respondent No.2-informant submits that the parties have arrived at an amicable settlement and respondent No.2 has filed an affidavit-in-reply to that effect. Learned counsel submits that respondent No.2 and the applicants are residing in the same village and they have arrived at settlement after intervention of the elderly persons of the society and the family members. Though the crime is of the year 2015, thereafter, no incident had taken place till this date involving the applicants and respondent No.2 in any crime. In order to maintain good relations and harmony, the applicants and respondent No.2 have arrived at an amicable settlement.

5. We have also heard learned A.P.P. for respondent No.1 State.

6. In the case of ***Gian Singh vs. State of Punjab and others***, reported in **(2012) 10 SCC 303**, the Supreme Court in para 48 has quoted para 21 of the judgment of the five-Judge Bench of the Punjab and Haryana High Court delivered in ***Kulwinder Singh v. State of Punjab* (2007) 4 CTC 769**. The five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the judgments of the Supreme court in the cases of *Madhu Limaye v. State of Maharashtra* (1977) 4 SCC 551, *State*

*of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335, *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699, *Simrikhia v. Dolley Mukherjee* (1990) 2 SCC 437, *B.S. Joshi v. State of Haryana* (2003) 4 SCC 675 and *Ram Lal v. State of Jammu and Kashmir* (1999) 2 SCC 213, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Clause (f) of the said guidelines is relevant which is reproduced herein below :

“45. ....

a. to e. ....

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.”*

7. Thus, the Supreme Court in para No.61 of the judgment in the case of ***Gian Singh vs. State of Punjab and others (supra)*** has made the following observations:-

*“61. 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."*

8. In the instant case, after going through the entire charge sheet, we find that no role has been ascribed to applicant Nos. 3 and 4. So far as applicant No.2 is concerned, though specific role is ascribed to him of assaulting the informant with the help of sword, however, it appears from the medico-legal certificate that the informant has sustained simple injuries on right arm which is not a vital part of the body. Both the parties are hailing from the same village. In order to maintain peace and harmony, they have arrived at an amicable settlement voluntarily. They have done so after elderly persons and family members intervened into the matter.

9. Furthermore, it is also necessary to consider that though the crime is of the year 2015, no incident had taken place between the respondent-informant and the applicants thereafter. We are satisfied that this settlement is arrived at voluntarily. Further, considering the allegations and the medico-legal certificate referred above and also considering the affidavit-in-reply filed by respondent No.2-informant,

we are satisfied that the settlement is just, fair and free from undue pressure. Hence, we proceed to pass the following order:-

### O R D E R

- I. Criminal application is allowed in terms of prayer clause "D".
- II. Criminal application is disposed of accordingly.

**(SHRIKANT D. KULKARNI, J.)**

**(V. K. JADHAV, J.)**

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