

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

CRIMINAL APPLICATION NO. 39 OF 2021

1. Leelabai W/o Laxman Patil
Age : 65 years, Occ. Household,
R/o. Nitin Nagar, Behind Kulkarni
Hospital, Shahada, Tq. Shahada,
Dist. Nandurbar

2. Laxman S/o Govind Patil,
Age : 71 years, Occ. Nil,
R/o. Nitin Nagar, Behind Kulkarni
Hospital, Shahada, Tq. Shahada,
Dist. Nandurbar

3. Suhas S/o Laxman Patil,
Age : 34 years, Occ. Household,
R/o. Nitin Nagar, Behind Kulkarni
Hospital, Shahada, Tq. Shahada,
Dist. Nandurbar

... Applicants

Versus

1. The State of Maharashtra
Through the Investigation Officer,
in Crime No.117/2017, registered
with Police Station, Sarangkheda,
Dist. Nandurbar

2. Bhagyashree W/o Suhas Patil,
Age : 28 years, Occ. Household,
R/o. At Post Pusand, Tq. Shahada,
Dist. Nandurbar.

... Respondents

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Mr. D.A. Mane, Advocate for the Applicants
Mr. Anand S. Shinde, A.P.P. for Respondent No.1 / State
Mr. Pankaj A. Bharat, Advocate for Respondent No.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 12th AUGUST, 2021

FINAL ORDER:-

1. With consent of the parties heard finally, at admission stage.
2. The applicants are accused in connection with crime no. 117 of 2017 registered with Sarangkhedha Police Station, District Nandurbar for the offence punishable under Sections 498-A, 323, 504, 506, 406, 418 read with Section 34 of the Indian Penal Code. At present, the charge-sheet has been submitted and this application is filed for quashing of the criminal proceedings (RCC No.51 of 2018) on the basis of settlement arrived between the parties.
3. The learned counsel for the applicants submits that applicant no.3 and respondent no.2 have arrived at an amicable settlement, and in terms of settlement arrived between them, they have also filed H.M.P No.71 of 2020 for mutual divorce, which is pending before the Civil Judge, Senior Division at Shahad. Learned counsel for the applicants submits that respondent no.2 did not willing to prosecute the proceedings filed against the applicants.
4. Learned counsel for respondent no.2 submits that respondent no.2 filed her affidavit-in-reply. He submits that applicant no.3 and respondent no.2 have arrived at an amicable

settlement and decide to resolve the dispute by filing the Hindu Marriage Petition for mutual divorce. Accordingly, they have filed H.M.P No.71 of 2020 under Section 13B of the Hindu Marriage Act for divorce by mutual consent before the Civil Judge, Senior Division at Shahada.

3. We have also heard the learned APP for Respondent No.1 / State.

4. In case of *Gian Singh Vs. State of Punjab and another* reported in *(2012) 10 SCC 303*, in para 48, the Hon'ble Supreme Court has referred the observations made in case of *Kulwinder Singh and Ors. Vs. State of Punjab and Anr*, in which a five Judge Bench of the Punjab and Harayana High Court has framed the guidelines. Guideline (a) is relevant for the present case which is reproduced as under:

“(a) Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.

Thus, the Supreme Court in para 61 of the Judgment in case of *Gian Singh Vs. State of Punjab and another* reported in *(2012) 10 SCC 303* (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. : (1) 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the 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 predominatingly civil flavour stand on a 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 the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

5. In the instant case, the parties have decided to end their dispute permanently and accordingly the applicant no.3 and respondent no.2 have also filed the H.M.P No.71 of 2020 under

Section 13B of the Hindu Marriage Act for divorce by mutual consent.

6. In view of the said compromise, the possibility of conviction is remote and bleak and continuation of the criminal case would put the applicants to great oppression and prejudice and extreme injustice would be caused to them by not quashing the criminal case despite full and complete settlement and compromise between them.

7. Though the marriage of applicant No.3 and respondent no.2 was performed in way back in the year 2014, they have no children. We find that the parties have decided to settle the dispute amicably. In view of the same, we proceed to pass the following order :

ORDER

- (i) The criminal application is allowed in terms of prayer clause 'B'.
- (ii) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P. Rane