

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

35 CRIMINAL APPLICATION NO.262 OF 2020

VIJAY S/O. RATILAL BHAGURE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Kadu Shivraj B.
APP for Respondents: Mr. R D Sanap
Advocate for Respondent 2 : Mr. Joshi Rahul G

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.
Dated: November 29, 2021

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PER COURT :-

1. The applicants/original accused are seeking quashing of the FIR no.119 of 2014 registered with Satara Police Station, Aurangabad for the offence punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code and also seeking quashing of the Criminal Proceedings vide RCC No.1826 of 2014 pending before the Chief Judicial Magistrate, Aurangabad, on settlement.

2. Learned counsel for the applicants submits that applicant nos.1 and 2 have arrived at amicable settlement and they have decided to separate

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permanently. Even, the applicant no.1 husband has obtained a decree of divorce by filing the HMP No.A-174 of 2015 before the Family Court, at Aurangabad. The learned counsel for the applicants submits that though it is a case of 2014, however, the trial is yet not commenced.

3. Learned counsel for respondent no.2 submits that, applicant nos.1 and 2 have amicably resolved their matrimonial dispute. Their marriage is also dissolved by a decree of divorce and applicant no.1 has also paid lump-sum amount of Rs.6.00 Lac to respondent no.2 towards permanent alimony. In view of the same, respondent no.2 is not interested to contest the criminal case bearing RCC No.1826 of 2014 pending before the Chief Judicial Magistrate, Aurangabad. Applicant no.1 and respondent no.2 have filed joint affidavit to that effect.

4. We have also heard the learned APP for respondent State.

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5. It appears that parties have arrived at amicable settlement. Applicant no.1 Vijay Bhagure (Husband) and respondent no.2 Bhagyashri Bhagure (wife) have filed the joint affidavit to that effect. In the year 2014 itself, applicant no.1 has filed petition No.A-174 of 2015 before the Family Court, Aurangabad under section 13 (1) (i-a) & (i-b) of the Hindu Marriage Act for dissolution of marriage alongwith petition No.E-168 of 2014 under section 125 of Criminal Procedure Code for grant of maintenance. By judgment and order dated 21.8.2018 the learned Judge of the Family Court, Aurangabad has allowed the petition bearing No.174 of 2015 and dissolved the marriage of the applicant no.1 and respondent no.2. It has also averred in the joint affidavit that applicant no.1 has paid lump-sum amount of Rs.6.00 lac to the respondent no.2 towards her permanent alimony. In view of the same, we find that the parties have arrived at amicable settlement voluntarily and care of respondent no.2-wife is also taken by giving her certain lump-sum amount towards her permanent alimony.

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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***. A five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the various judgments of the Supreme court, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of ***Kulwinder Singh's judgment*** is reproduced by the Supreme Court in para 48 of the judgment in ***Gian Singh***. Clause 21(a) which is relevant for the present discussion reads as under :

“21.

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

The Supreme Court in paragraph no.61 of the judgment of Gian Singh (supra) has made following observations :-

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“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 predominatingly 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.

7. In view of the above discussion and in terms of the ratio laid down by the Supreme Court in the aforesaid case, we proceed to pass the following order.

O R D E R

- i. Criminal application is hereby allowed in terms of prayer clause '**B**'.
- ii. Criminal application accordingly disposed off.

(SANDIPKUMAR C. MORE, J.) (V.K. JADHAV, J.)

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