

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

CRIMINAL APPLICATION NO. 218 OF 2021

Manjit S/o Pritamsingh Tomar
Age : 40 Years, Occu: Service,
R/o. N-4, F-26, CIDCO, Aurangabad
Taluka and District Aurangabad. ... Applicant

Versus

1. The State of Maharashtra
Through Police Inspector
Chikalthana Police Station (Rural)
Taluka and District Aurangabad
2. Yogita W/o Sachin Borse
Age: 35 years, Occu: Private Service
R/o. Shereya Nagar, Zambad Estate
Aurangabad,
Taluka and District Aurangabad ... Respondents

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Mr. A.B. Kharosekar, Advocate for the Applicant
Mr. Anand S. Shinde, A.P.P. for Respondent No.1 / State
Mr. O.B. Boinwad, Advocate for Respondent No.2

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

DATE : 20th AUGUST, 2021

PER COURT:-

1. With consent of the parties heard finally, at admission stage.

2. This criminal application is filed for quashing of the criminal proceedings on settlement between the parties.

3. The applicant is an accused in connection with F.I.R. / Crime No. 430 of 2019, which is at present registered as Criminal Case No. 10 of 2020 pending before the Judicial Magistrate, First Class, Aurangabad for the offence punishable under Section 354 of the Indian Penal Code.

4. Learned counsel for the applicant submits that the applicant is serving as an engineer in one private company and respondent no.2 – informant is also an L.I.C. agent. Learned counsel submits that in order to maintain good relations in future they have arrived at an amicable settlement. Learned counsel has pointed out that the allegations have been made under misunderstanding.

5. Learned counsel for respondent no.2 – informant submits that the parties have arrived at amicable settlement and respondent no.2 has also filed her affidavit-in-reply to that effect. Learned counsel submits that respondent no.2 – informant has filed the said complaint under some misunderstanding and in fact, applicant and respondent no.2 are having good relations with each other and also there are family relations. Furthermore,

respondent no. 2 personally approached to the applicant and her parents and expressed her willingness to compromise and also maintain harmony between the families.

6. We have also heard the learned APP for respondent no.1 / State. Learned APP submits that there are no antecedents.

7. In case of *Prabhatbhai Aahir and Ors. Vs. State of Gujrat and others* reported in *AIR 2017 SC 4843*, in para no.15, the Hon'ble Supreme Court has summarised the broad principles which emerge from the precedents for quashing of the proceedings on the basis of settlement. Para 15 of the said judgment is reproduced herein below:

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the

purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and

(ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

8. In the instant case, respondent no. 2 – informant has travelled with the applicant on her own. However, during the said travel on Scooty, there was certain misunderstanding between them. Furthermore, the husband of respondent no.2 has also seen them travelling together on Scooty and there was a quarrel

between the husband and the applicant. It has been simply alleged in the complaint that the applicant was riding the Scooty in such a manner that the informant was forced to get a touch of his body. Thus, considering the allegations and in view of the ratio laid down by the Hon'ble Supreme Court in the aforesaid case, we are inclined to quash the proceedings on the basis of the settlement.

9. We are satisfied that the parties have arrived at the settlement voluntarily. There are no antecedents so far as the applicant is concerned. The applicant is in service. He is an engineer. Thus, considering the entire aspect of the case, 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