

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

CRIMINAL APPLICATION NO. 912 OF 2020

Javed Riyaj Patel & Ors.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

.....

Shri. M. P. Tripathi, Advocate for the applicants

Shri. K. S. Patil, APP for respondent / State

Shri. M. L. Hassan & Shri. N. S. Kadam, Advocate for respondent no. 2

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**CORAM : V. K. JADHAV &
SANDIPKUMAR C. MORE, JJ.**

DATE : DECEMBER 14, 2021

ORAL ORDER : -

1. Heard finally with consent, at the admission stage.
2. The applicants / original accused seek quashing of the FIR bearing no. 300/2019 registered with Nanalpeth Police Station, Parbhani, for the offences punishable under Sections 498A, 406, 323, 504, 506 r/w 34 of the Indian Penal Code and Sections 3 and 4 of the Prohibition of Dowry Act, 1961.
3. The applicants / accused are also seeking quashing of the proceedings bearing RCC No. 665/2020 pending before the learned

Chief Judicial Magistrate, Parbhani, arising out of the aforesaid crime on the ground that the parties have arrived at amicable settlement.

4. Learned Counsel for the applicants submits that the parties have resolved the dispute amicably due to the intervention of the parents and the other elderly persons of the family.

5. Learned Counsel for respondent no. 2 submits that respondent no. 2 – wife has filed affidavit to that effect. The meeting was held on 07th February, 2020 at Parbhani, wherein it was agreed by the parties to settle the dispute amicably. Applicant no. 1 and respondent no. 2 got separated by Khula. Applicant no. 1 – husband has waived his right of compensation from the wife and on the other hand, applicant no. 1 has paid an amount of Rs. 2.00 lakhs to respondent no. 2 – wife. Learned counsel submits that respondent no. 2 received said amount from applicant no. 1 by cheque bearing no. 417626 of Bank of Indian, Branch at Pune.

6. It appears that the parties have arrived at the settlement voluntarily and the care has also been taken to give certain amount to respondent no. 2 – wife towards one time maintenance.

7. 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 (a) of the said guidelines is relevant which is reproduced herein below :

“48.

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

(b) to (f)

8. The Supreme Court in paragraph no. 61 of the judgment in the case of *Gian Singh vs. State of Punjab (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.”

9. In view of the above settlement arrived at between the parties and in terms of the law laid down by the Hon'ble Supreme Court in above cited case, we proceed to pass the following order :-

ORDER

[i] Criminal Application is allowed in terms prayer clauses 'B' and 'BB' thereof.

[ii] Criminal Application is accordingly disposed of.

[SANDIPKUMAR C. MORE]
JUDGE

[V. K. JADHAV]
JUDGE