

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

962 CRIMINAL APPLICATION NO.777 OF 2021

VIKAS S/O LOTAN RAO AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Ms. Rutuja L. Jakhade
APP for Respondents: Mr. S. J. Salgare
Advocate for Respondent No.2: Mr. S. P. Pandit

**CORAM : V. K. JADHAV AND
S. G. DIGE, JJ.
DATED : 16th JULY, 2021**

PER COURT:-

1. By consent, heard finally at admission stage.
2. The applicants are original accused in connection with F.I.R. No. 94 of 2020 registered with Shahada police station for the offences punishable under Sections 498-A, 109, 323, 504, 506 and 34 of I.P.C. The applicants have approached to this Court by filing present criminal application for quashing of F.I.R. mainly on the ground of settlement arrived at between the parties.
3. Respondent No.2 (wife) original complainant has filed affidavit in reply. It is stated in the said affidavit in reply that she herself and her husband applicant No.1 herein have tried to settle the dispute at their level best, however, they have decided to get separated by mutual understanding. Respondent No.2 wife has preferred HMP No. 36 of 2021 under Section 13 (B) of Hindu Marriage Act, 1955

which is pending before the Civil Judge, Senior Division, Nandurbar. It has been contended that because of intervention of elderly members of the family they have arrived at the decision to take mutual divorce. Respondent No.2 wife is now residing with her parents at her parental house and she has no complaint or any grievance as raised in the impugned F.I.R. and the charge sheet. She do not wish to pursue further with the said F.I.R. or to prosecute the present application.

4. In the case of ***Gian Singh vs. State of Punjab and others***, reported in **(2012) 10 SCC 303**, in para 57 the Hon'ble Supreme Court has summarized the position as follows:-

"57. ... 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 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. It has been observed by the Supreme Court that the offence arising from 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, the High Court may quash criminal proceedings. It is also observed that 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. We are satisfied that the parties have arrived at a complete settlement and they have decided to get separated by filing mutual divorce petition. Thus, the continuation with criminal proceeding would tantamount to abuse of process of law. Hence, we proceed to pass the following order:-

O R D E R

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

(S. G. DIGE, J.)

(V. K. JADHAV, J.)

rlj/