

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

CRIMINAL APPLICATION NO.932 OF 2020

YOGESH S/O. ASHOK BHAT AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : S/Shri Pavan P. Uttarwar And S.S. Joshi
APP for Respondent No.1 : Shri R. V. Dasalkar
Advocate for Respondent No.2 : Shri A. P. Yenegure
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**CORAM : RAVINDRA V. GHUGE AND
B. U. DEBADWAR, JJ.**

DATE : 30TH MARCH, 2021

PER COURT :

1. By this application, the applicants - accused in FIR No.47 of 2020, registered with Bhagya Nagar Police Station, District Nanded, on 04-02-2020, prays for quashing of the same. Sections 66, 43(f), 43(e) and 43(b) of the Information Technology Act, 2000 have been attracted. The learned advocate for the applicants and the learned advocate on behalf of respondent No.2 - original informant, on the basis of the compromise terms duly signed, verified and identified by the learned advocates along with Annexures (from page No. 179 to 190), prayed for quashing of the FIR by consent.

2. We find that the applicants and the informant are the young entrepreneurs, who entered into a commercial transaction. Since, there was a dispute between them, the informant registered an FIR bearing Crime No.47 of 2020. Section 420 of the Indian

Penal Code, amongst the various provisions attracted, is compoundable with the permission of the Court.

3. In ***Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and others vs. State of Gujarat and another, (2017) 9 SCC 641***, the Honourable supreme Court has laid down the guiding principles to be considered in determining whether an FIR could be quashed, as under:-

“(1) Section 482 Cr.P.C 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.

(2) 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 Cr.P.C. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

(7) 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 insofar as the exercise of the inherent power to quash is concerned.

(8) 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.

(9) 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

(10) There is yet an exception to the principle set out in Propositions (8) and (9) 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."

4. This Court can assess the facts and circumstances emerging from a case and if no heinous crime or grave offence is committed against the society at large, and if the dispute is with regard to matrimonial discord or a commercial transaction, this Court can quash the FIR in view of the compromise terms.

5. We find that the informant, who is 20 years old person, developed a comprehension that the applicants had cheated him and proceeded to register an FIR. With the passage of time, the

differences between the informant and the applicants have been resolved and the company belonging to applicant No.2, who is a 31 year old professional from Australia, had also paid Rs.3,00,000/- to the informant. The informant confirms the receipt of the said amount by IMPS, which is a way of transferring money, to the account of the informant from Australia.

6. Considering the compromise terms, which are supported by verification and affidavit of each of the parties, we do not find that any purpose would be served in keeping the case alive and compelling the accused to face the trial. We also find that there is no heinous or grave crime committed against the State or the society, which would convince us to refrain from exercising our jurisdiction under Section 482 of the Code of Criminal Procedure, 1973.

7. As such, considering the contents of the FIR, the nature of the dispute / grievance and the compromise terms, the FIR in Crime No.47 of 2020 is quashed and set aside. The application is, therefore, allowed. Consequentially, the charge-sheet filed in the matter would not survive and stands quashed. The applicants and the informant shall be bound by the terms of the compromise, placed on record from page No.179 to page No.190.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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