

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

CRIMINAL WRIT PETITION NO.590 OF 2021

**SHANTA W/O. RAJIV NAGARE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

...
Advocate for Petitioners : Mr. Prashant M. Nagargoje
APP for Respondent Nos. 1 & 2 : Mr. S. J. Salgare
Advocate for Respondent No.3 : Mr. V. P. Kadam
...

**CORAM : V. K. JADHAV AND
S. G. DIGE, JJ.**

DATE : 23rd JULY, 2021

PER COURT :

1. Heard finally at admission stage by consent of the parties.
2. This criminal writ petition is filed for quashing of the FIR on the basis of settlement between the parties.
3. As per the allegations made in the FIR respondent No.3 – complainant had availed Rs.10,000/- as a hand loan from petitioner No.2 and in view of the said amount respondent No.3 has issued a cheque of his account with Chikhali Phulmbri Branch dated 01-02-2021, as a bearer cheque, to petitioner No.2. However, it was canceled and the informant – respondent No.3 has issued another cheque of Rs.10,000/- of the above said bank on

03-02-2021. However, the earlier cheque was not returned. It further appears from the allegations made in the FIR that the petitioners had changed the figure on the said cheque from Rs.10,000/- to Rs.1,10,000/- and further added name of petitioner No.1 before the name of petitioner No.2 i.e. Raju Nagare. Therefore, Crime No.72 of 2021 came to be registered against the petitioners on 30-03-2021 for the offences made under Sections 420, 464, 465, 466, 467, 468, 469, 471 read with Section 34 of Indian Penal Code.

4. The learned counsel for the petitioners submits that the petitioners and respondent No.3 have arrived at amicable settlement and they have filed joint affidavit of compromise before this Court. The learned counsel appearing for respondent No.3 – informant has also accepted the same.

5. The learned counsel for respondent No.3 informant submits that there is an oral contract between the petitioners and respondent No.3 and there are no allegations about the forgery of the Government record. The petitioners and respondent No.3 are having cordial relations and they know each other since last 15 years. After registration of the FIR, relatives of the petitioners and relatives of respondent No.3 including the *Sarpanch* of the village had a meeting and decided to patch up the matter. There was

misunderstanding between the petitioners and respondent No.3 about the payments. It was also decided in the said meeting, dated 13-04-2021, that in future they will not lodge complaint against each other and they would not enter into any hand loan and financial transactions.

6. In a case of **Parbatbhai Aahir alias Parbatbhai Bhimsinhbhai Karmur and ors Vs. State of Gujarat and another** reported in AIR 2017 Supreme Court 4843, the Hon'ble Supreme Court in paragraph No.15 of the Judgment has laid down broad principles which emerge from the precedents on the subject. The Clause Nos. (v), (vi), (vii) and (viii) are reproduced herein, which are relevant for the present discussion:

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

(i)

(ii)

(iii)

(iv)

(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)

(x)"

7. The Hon'ble Supreme Court has held that the decision as to whether 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. It is also observed by the Hon'ble Supreme Court that there may be criminal cases which have an overwhelming or predominant element of a civil dispute. Even the Hon'ble Supreme Court has considered 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.

8. In the instant case we have satisfied that the parties have arrived at amicable settlement voluntarily. It is a dispute between two persons and after intervention of the family members, the petitioners and respondent No.3 have decided to settle the matter finally. In view of the same and in terms of the ratio laid down by the Hon'ble Supreme Court in the aforesaid case as referred above, we allow this writ petition in terms of prayer clause 'A'.

9. Writ petition is accordingly disposed of.

10. However, both the parties have used the police machinery to ultimately settle their dispute which is private in nature, we, therefore, impose the cost on the parties. We direct the petitioners and respondent No.3 to deposit cost of Rs.10,000/- (Rupees Ten Thousand Only) before this Court and the same shall be paid to the High Court Legal Services Sub Committee, Aurangabad.

(S. G. DIGE, J.)

(V. K. JADHAV, J.)