

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

946 CRIMINAL APPLICATION NO. 1444 OF 2021

GANESH DEVIDAS PANSARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....

Advocate for Applicants : Mr. Shrimant Mundhe
APP for Respondent No.1 : Mr. K. S. Patil
Advocate for Respondent No.2 : Ms. Sharda P. Chate (appointed)

.....

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATED : 28th SEPTEMBER, 2021**

PER COURT :

1. Leave to carry out amendment in the prayer clause forthwith since charge-sheet has been submitted during pendency of this criminal application.
2. This application is filed for quashing of the FIR. However, the applicants and respondent no.2-informant have arrived at an amicable settlement and the compromise terms have been worked out between them.

3. Learned counsel for the applicants submits that applicant no.1 is the husband. Marriage of applicant no.1 and respondent no.2 was solemnized on 13.02.2020 and they resided together till 09.04.2020 only. Thereafter, respondent no.2-wife has filed complaint on the basis of which the present FIR bearing no. 56/2021 came to be registered with Patoda police station, Patoda, taluka Patoda, District Beed. On 10.08.2021, applicant no.1 and respondent no.2 have filed Hindu Marriage Petition No. 69/2021 before the Family Court, Beed for dissolution of marriage by mutual consent. It has been agreed between them that applicant no.1-husband shall pay Rs.7,00,000/- towards lump-sum lifetime alimony. Accordingly, on 09.08.2021, applicant no.1-husband has paid Rs. 3,50,000/- to respondent no.2-wife through D.D. No. 178013. However, the said HMP is still pending and after passing of the final decree, the remaining amount is agreed to be paid to respondent no.2-wife.

4. Learned counsel for respondent no.2-wife submits that respondent no.2 has signed the said compromise terms voluntarily and the parties have now agreed to get separated permanently. Accordingly, they have filed the HMP for dissolution of marriage by

mutual consent. Respondent no.2-wife has also received the amount of Rs.3,50,000/- as per the terms of the compromise and the remaining amount will be paid to her at the time of passing of final decree in the said HMP. In view of the same, the parties have amicably decided to settle their dispute finally and also filed the terms of compromise before this Court. The same is taken on record.

5. 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. Para 21 of the said case of ***Kulwinder Singh*** is reproduced by the Supreme Court in para 48 of the judgment in ***Gian Singh***. Clause 21(a) which is relevant for the present discussion reads as under :

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

6. As per the guidelines framed by the five-Judge Bench as detailed above, the proceedings can be quashed on the basis of the settlement in cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.

7. In the instant case, the parties have arrived at an amicable settlement voluntarily. There are no other offences for aggravation of the case. We have carefully perused the compromise terms. It appears that respondent no.2-wife has been paid substantial amount towards her permanent alimony. In view of the same and also in terms of the ratio laid down by the Supreme Court by referring the said decision of the five-Judge Bench of the Punjab and Haryana High Court, we proceed to pass the following order.

ORDER

I. The criminal application is hereby allowed in terms of prayer clause “C”.

II. The criminal application is accordingly disposed off.

III. We quantify the fees for the appointed counsel at Rs.2,000/- (Rupees Two Thousand only) to be paid by the High Court Legal Services Sub-committee, Aurangabad.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV, J.)