

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

CRIMINAL APPLICATION NO. 1541 OF 2021

1. Manish Dnyaneshwar Baviskar
Age : 34 Years, Occu: Services
Presnetly R/o. Pasadena, TX USA
Through his General Power of Attorney Holder
Smt. Jyoti Adhar Chaudhari
Age: 57 years, Occu. Service,
R/o Keshav Nagar, Amalner,
Taluka Amalner, Disrict Jalgaon. ... Applicant

Versus

1. The State of Maharashtra
Through Ramanand Police Station,
Jalgaon, Dist. Jalgaon.
2. Sayali Manish Baviskar @
SayaliDinesh Chaudhari
Age: 26 years, Occu: Household
R/o C/o Dinesh Namdeorao Chaudhari
Shiv Colony, Plot No.45, Gat No.55,
Ramanand Nagar, Jalgaon,
Taluka & District Jalgaon. ... Respondents

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Mr. Girsih S. Rane, Advocate for the Applicant
Ms. Preeti V. Diggikar, A.P.P. for Respondent No.1 / State
Mr. R.R. Kazi, Advocate for Respondent No.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 20th AUGUST, 2021

FINAL ORDER:-

1. Learned counsel for respondent no.2 submits an affidavit-in-reply of respondent no.2. The same is taken on record. A copy is already given to the counsel appearing for the applicant.
2. With consent of the parties heard finally, at admission stage.
3. This criminal application is filed for quashing of the criminal proceedings on settlement.
4. The applicant is the accused in connection with F.I.R. / crime no. 192 of 2020 (at present RCC No.243 of 2021) for having committed the offence punishable under Sections 498-A, 420, 406, 323, 504, 506, 507, 510 read with Section 34 of the Indian Penal Code.
5. Learned counsel for the applicant submits that applicant-husband and respondent no.2-wife have arrived at an amicable settlement and in terms of the settlement, they have obtained the decree of divorce by mutual consent. They have decided to end their marital ties amicably.
6. Learned counsel for respondent no.2 submits that the parties have arrived at an amicable settlement. He submits that respondent no.2 has filed an affidavit-in-reply to that effect. Learned counsel

submits that this Court has already quashed the F.I.R. and the charge-sheet filed against original accused nos. 2 to 10 by allowing criminal application no.1120 of 2020. Learned counsel submits that in terms of the settlement, the applicant and respondent no.2 had filed H.M.P bearing no.152 of 2020 for decree of divorce by mutual consent. The learned Civil Judge, Senior Division at Amalner by judgment and order dated 08.06.2021 has allowed the said H.M.P and dissolved the marriage by mutual consent.

7. We have also heard the learned APP for respondent no.1 / State.

8. In case of *Gian Singh Vs. State of Punjab and another* reported in *(2012) 10 SCC 303*, in para 48, the Hon'ble Supreme Court has referred the observations made in case of *Kulwinder Singh and Ors. Vs. State of Punjab and Anr*, in which a five Judge Bench of the Punjab and Harayana High Court has framed the guidelines, and the guideline (a) is relevant for the present discussion, which is reproduced as under:

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

9. In case of *Parbatbhai Aahir and Ors. Vs. State of Gujrat and others* reported in *AIR 2017 SC 4843*, in para no.15, the Hon'ble Supreme Court has summarised the broad principles which emerge from the precedents for quashing of the proceedings on the basis of settlement. Para 15 of the said judgment is reproduced herein below:

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

(i) Section 482 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;

(ii) 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 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) 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;

(iv) 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;

(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) 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

(x) There is yet an exception to the principle set out in propositions (viii) and

(ix) 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.”

10. In the instant case, we are satisfied that the parties have arrived at an amicable settlement voluntarily and in terms of the settlement, the parties had approached the Civil Court for obtaining a decree of divorce by mutual consent, and accordingly by order

dated 08.06.2021, the Civil Court has granted a decree of divorce on mutual consent. It further appears that this Court by order dated 26.04.2021 in criminal application no.1120 of 2020 has already quashed the F.I.R. and the criminal proceedings against the original accused nos. 2 to 10. It appears that the parties have decided to end their marital ties permanently.

11. Thus, considering the entire aspect of the case and in terms of the ratio laid down by the Hon'ble Supreme Court in the aforesaid cases, we proceed to pass the following order:-

ORDER

- (i) The criminal application is allowed in terms of prayer clause 'A'.
- (ii) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane