

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

70 CRIMINAL WRIT PETITION NO.599 OF 2019

KIRAN S/O. SURESH JUNDARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Petitioners :Mr. Kakde Yuvraj V.
APP for Respondents: Mr. K S Patil
Advocate for Respondent 2 : Mr. B.B. Shelke And T.V.
Bedre

...

AND

73 CRIMINAL WRIT PETITION NO.1444 OF 2020

KIRAN S/O. SURESH JUNDARE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Advocate for Petitioner : Mr. Kakde Yuvraj V.
APP for Respondents: Mr. K S Patil
Advocate for Respondent 2 : Mr. Bedre V S

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.
Dated: December 06, 2021

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PER COURT :-

1. Leave to add RCC number in prayer clause in both the writ petitions. Addition be carried out forthwith.
2. Heard finally with the consent of parties at admission stage.

3. In criminal writ petition no.599 of 2019, the applicants/original accused are seeking quashing of the FIR bearing crime No.59 of 2019 registered with Rahuri Police Station for the offence punishable u/s 498-A, 323, 504, 506, 34 of the Indian Penal Code and also seeking quashing of the criminal proceedings bearing RCC No.131 of 2021 pending before the Judicial Magistrate First Class, Rahuri, on settlement.

4. In criminal writ petition no.1444 of 2020, the applicant/original accused is seeking quashing of the FIR bearing crime No.850 of 2019 registered with Rahuri Police Station for the offence punishable u/s 509, 507 of the Indian Penal Code and also seeking quashing of the criminal proceeding bearing RCC No.351 of 2021 pending before the Judicial Magistrate First Class, Rahuri, on settlement.

5. Learned counsel for the petitioners and respondent no.2 submit that the parties have arrived at an amicable settlement and respondent no.2/informant has also filed her affidavit to that effect. Petitioner No.1 Kiran and respondent no.2 Ashwini have filed the

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petition for a decree of divorce by mutual consent and the Court has passed a decree of divorce with the consent of the parties on 29.6.2020 in HMP No.31 of 2020. Learned counsel for respondent no.2 submits that it has been agreed between the parties that petitioner Kiran will pay an amount of Rs.1,50,000/- (Rs. One lac Fifty Thousand) to respondent no.2 towards permanent alimony. Learned counsel for respondent no.2 submits that respondent no.2 has filed affidavit to the extent of settlement between them and in terms of compromise she has also been paid an amount of Rs.1,50,000/- towards permanent alimony.

6. We have also heard the learned APP for the respondent State.

7. It appears that the parties have arrived at an amicable settlement and in terms of the settlement between the petitioner Kiran and respondent no.2-informant, parties have obtained a decree of divorce by filing a joint petition bearing HMP No.31 of 2020 before the Civil Court. It also appears that the care has also been taken to pay certain amount to respondent no.2

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towards permanent alimony. We are thus satisfied that the parties have arrived at amicable settlement, voluntarily and they have decided to end the litigations between them.

8. In the case of ***Gian Singh vs. State of Punjab and others***, reported in ***(2012) 10 SCC 303***, the Supreme Court in paragraph no.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***. A five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the various judgments of the Supreme court, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of ***Kulwinder Singh's judgment*** 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.

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

The Supreme Court in paragraph no.61 of the judgment of Gian Singh (supra) has made following observations :-

“61. The position that emerges from the above discussion can be summarised thus: 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and 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 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 victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

9. In view of the above discussion and in terms of the ratio laid down by the Supreme Court in the case of

Gian Singh (supra), we proceed to pass the following order.

O R D E R

- i. Criminal writ petition no.599 of 2019 (Kiran Suresh Jundare and others Vs. State of Maharashtra and another) and Criminal Writ Petition No.1444 of 2020 (Kiran s/o Suresh Jundare Vs. The State of Maharashtra and another) are hereby allowed in terms of prayer clause '**B**'.
- ii. Both the criminal writ petitions are accordingly disposed off.

(**SANDIPKUMAR C. MORE, J.) (V.K. JADHAV, J.)**

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