

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

CRIMINAL APPLICATION NO. 1897 OF 2021

Nitish S/o Nana Gaikwad
and others

... Applicants

Versus

The State of Maharashtra
and another

... Respondents

....

Mr. Ganesh M. Hiwale and Mr. Shubham S. Nabriya, Advocates
for the Applicants

Mr. R.D. Sanap, APP for Respondent No.1 / State

Mr. K.D. Jadhav and Mr. V.L. Bhange, Advocates for Respondent
No.2

....

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

DATE : 20th OCTOBER, 2021

PER COURT:-

1. Heard finally with consent at admission stage.
2. The applicants are seeking quashing of the FIR so also quashing of the criminal proceedings on the basis of settlement.
3. Learned counsel for the applicants submits that the parties have arrived at amicable settlement and as per the terms of the settlements, the parties have also filed joint petition

before the Family Court for mutual divorce. The same is pending.

4. Learned counsel for respondent no.2-informant submits that respondent no.2 has also filed an affidavit-in-reply to that effect. The parties have arrived at amicable settlement due to intervention of the family members and senior reputed persons of the society. They have decided to get separated permanently. Learned counsel submits that even applicant no.1-husband and respondent no.2-informant have filed joint petition bearing No.F-181/2021 before the Family Court, Aurangabad for mutual divorce. Even applicant no.1 has agreed to pay permanent alimony, marriage expenses, streedhan, utensil etc. to respondent no.2-informant.

5. In a case of *Gian Singh Vs. State of Punjab and another*, reported in *2012 (10) Supreme Court Cases 303*, in para 48 of the judgment, the Supreme Court has referred the view taken by five-judge Bench of Punjab and Haryana High Court in *Kulwinder Singh and others v. State of Punjab and another* reported in *(2007) 4 CTC 769*, wherein the five-judge Bench by referring few decisions of the Supreme Court has framed

guidelines for quashing of the FIR/criminal proceedings on the basis of settlement. The said guidelines are mentioned in para no.21 of the judgment of five-judge Bench. Clause 'a' of the said guidelines is relevant for the present discussion, which is reproduced here-in-below :-

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

6. On careful perusal of the affidavit-in-reply filed by respondent no.2 and considering that applicant no.1 and respondent no.2-informant have approached the Family Court for mutual divorce, we are satisfied that the parties have arrived at the settlement voluntarily. It further appears from the terms of settlement that reasonable care has been taken about paying permanent alimony and marriage expenses to respondent no.2 so also returning streedhan, utensils etc.

7. In view of the above and the ratio laid down by the Honourable Supreme Court in the aforesaid cases, we proceed to pass the following order :

ORDER

- (i) Criminal Application is allowed in terms of prayer clauses (B).
- (ii) Criminal Application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane