

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

921 CRIMINAL APPLICATION NO. 2237 OF 2021

POPATLAL MOHANLAL CHORDIYA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for the Applicant : Mr. A. P. Bhandari
APP for Respondent No.1 : Mr. S. P. Deshmukh
Advocate for Respondent no.2 : Mr. M. M. Parghane
...

**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 30th NOVEMBER, 2021.

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ORDER : (PER : SANDIPKUMAR C. MORE, J) :

1. By consent of the parties, heard finally at the stage of admission.
2. The applicant has filed this application for quashing F.I.R. bearing Crime No. 648 of 2017 dated 16/09/2017 registered with Mukundwadi Police Station, Aurangabad along with criminal proceeding arising out of it bearing Sessions Case No. 349 of 2017 pending before District Court, Aurangabad for the offence punishable under Section 506 of IPC and Section 3(1)(10) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 on the ground of settlement.

3. The applicant is the original accused and has been charged for the offence punishable under Section 506 of IPC and Section 3(1)(10) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989. Respondent no.2 belongs to Scheduled Caste and also owner of land Gut No. 14 of village Rampuri, Tal. and District : Aurangabad, admeasuring 12 acres along with his other relatives. Respondent no.2 and his other relatives, had executed a registered sale deed dated 03/09/2015 in respect of the aforesaid land in favour of the present applicant. At the time of sale deed, an amount of Rs.10,00,000/- was paid by the applicant to respondent no.2 and his other relatives and for remaining amount, cheques of Rs.16,50,000/- were issued. However, those cheques were dishonoured and therefore, proceedings under Section 138 of Negotiable Instruments Act were also initiated against the present applicant by respondent no.2. One Mr. Pramod Bherudas Raisonni had also filed Special Civil Suit No. 43 of 2016 in respect of the aforesaid land against respondent no.2 and his family members and in that suit even the present applicant was also impleaded as a party defendant. When on 12/09/2017 at about 3.00 p.m. respondent no.2 and his friends were standing near Kamgar Chowk, N-2, the applicant came there. When respondent no.2 demanded the remaining amount of consideration from the applicant in respect of the aforesaid land, the applicant abused respondent no.2

by referring his caste and denied the payment. Therefore, on the basis of the F.I.R. lodged by respondent no.2, Mukundwadi Police Station Authorities have registered the aforesaid offence against the present applicant and on completion of investigation, also filed charge sheet.

4. Learned counsel for the applicant submits that the applicant and present respondent no.2 have already settled the *inter-se* dispute in respect of land Gut No. 14 of village Rampuri, Taluka and District : Aurangabad amicably. Further proceedings under Negotiable Instruments Act bearing SCC No. 6693 of 2016 and SCC No. 6284 of 2016, have also been quashed and set aside in view of compromise between the applicant and respondent no.2 by the order of this Court (**CORAM : Mangesh S. Patil, J.**) dated 27th July, 2018 in Criminal Writ Petition No.1702 of 2017 and Criminal Writ Petition No.1700 of 2017. Further it is submitted by the learned counsel for the applicant that recovery suit bearing Special Civil Suit No.179 of 2019 filed by present respondent no.2 and his relatives against the present applicant for recovery of remaining consideration amount of Rs.33,00,000/- in respect of the aforesaid sale deed, is also settled as the present applicant paid the said amount.

5. Learned counsel for respondent no.2 submits that respondent no.2 has also filed his affidavit in reply, wherein the fact of his settlement with the present applicant as mentioned above, is stated. Respondent no.2 in the said affidavit, has specifically mentioned that in view of the mediation taken place, applicant and himself with the help of well-wishers and friends, have agreed to settle the dispute amicably. Respondent no.2 has also stated that due to non-payment of balance consideration amount of Rs.33,00,000/-, the present dispute had started between himself and the applicant but since the said amount is now paid to him, he has no objection to quash the present crime as well as criminal proceedings arising out of it.

6. Learned counsel for the applicant placed his reliance on the following judgments :

- I) *Rajubhai Chaganbhai Chovatiya Vs. State of Gujarat, in R/Criminal Misc. Application No. 12716 of 2020 decided on 05/10/2020;***
- II) *Gain Singh Vs. State of Panjab and another, (2012) 10 SCC 303;***
- III) *Narinder Singh and others Vs. State of Punjab and another, (2014) 3 SCC (Cri) 54;***
- IV) *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Kumar and others vs. State of Gujarat and another, AIR 2017 SCC 4843.***

7. We also heard the learned APP for respondent no.2-State.

8. In the case of ***Gain Singh*** (supra), in paragraph 48, the Supreme Court has framed the guidelines to consider quashing of the proceedings where the parties have arrived at amicable settlement. To conclude, the Supreme Court has observed that there can never be any hard and fast category which can be prescribed to enable the court to exercise its power under Section 482 of Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the section itself i.e. 'to prevent abuse of the process of any court or to secure the ends of justice'.

Thus, it is observed by the Hon'ble Supreme Court as below :

“The powers under Section 482 of the Cr.P.C. and under Article 226 of the Constitution of India could be exercised for quashing of F.I.R. or the proceedings wherein the offences alleged are under the provisions of Prevention of Atrocities Act in view of the settlement arrived at between the parties”.

9. Even the Division Bench of this Court has recently taken the similar view in following subsequent cases :

1) Manoj Hiralal Gupta and others Vs. The State of Maharashtra, reported in AIR ONLINE

2021 BOM 1957;

II) Chandu Gajanan Margaonwar Vs. State of Maharashtra, reported in AIR ONLINE 2021 BOM 486 and

III) Mansur A. Khan vs. State of Maharashtra, reported in 2004 (Supp 2) Bom.C.R. 693.

10. In the present case the crime which the applicant wants to quash, has arisen out of civil dispute between himself and respondent no.2 / informant. However, on carefully going through the affidavit in reply by respondent no.2, it appears that parties have arrived at settlement voluntarily. Further there is order of this Court (**CORAM : Mangesh S. Patil, J.**) dated 27th July, 2018 in Criminal Writ Petition No.1702 of 2017 and Criminal Writ Petition No.1700 of 2017, whereby the proceedings lodged by respondent no.2 under Negotiable Instruments Act bearing SCC No. 6693 of 2016 and SCC No. 6284 of 2016, were quashed. Further whatever remaining balance consideration amount was due from the applicant towards the sale deed of the aforesaid land Gut No. 14, is also paid by him to respondent no.2 and his relatives and in the result the recovery suit to that effect, has also been withdrawn by respondent no.2. There appears no personal enmity between the applicant and respondent no.2. The incident of lodging the FIR at the hands of respondent no.2, might have taken place on account

of civil dispute. Be that as it may, but respondent no.2 and the applicants have decided to settle the dispute between them for good cause and for maintaining harmonious relationship in future.

11. Therefore, considering this aspect and the view taken by this Court in earlier proceedings and also in the light of observations of the Hon'ble Apex Court in the case of **Gain Singh** (supra), we have decided to exercise the powers under Section 482 of the Cr.P.C. and under Article 226 of the Constitution of India for quashing the FIR and the proceeding as mentioned above by keeping in mind the peculiar facts of the present case. Hence, we pass the following order:

O R D E R

- I) The criminal application is hereby allowed in terms of prayer clause " B ".
- II) The criminal application accordingly stands disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-