

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

943 CRIMINAL APPLICATION NO.2238 OF 2021

RAFAT YAR KHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicants : Mr. Sohail Subhedar h/f N S
Ghanekar

APP for Respondent 1 : Mr. R D Sanap

Advocate for Respondents 2-6 : Mr. M M. Rapanwad

...

AND

944 CRIMINAL APPLICATION NO.2248 OF 2021

MEHRAJ KHAN JALIL KHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Applicants : Mr. Rapanwad Mukesh M.

APP for Respondent 1 : Mr. R D Sanap

Advocate for Respondents 2,3 : Mr. Sohail Subhedar h/f
N S Ghanekar

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.

Dated : November 18, 2021

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PER COURT :-

1. The applicants in criminal application no.2238 of 2021 are seeking quashing of the First Information Report bearing crime no.300 of 2021 registered with Begumpura police station, Aurangabad for the offence

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punishable under sections 143, 147, 148, 323, 324, 326, 427, 504, 506 of the Indian Penal Code.

The applicants in criminal application no.2248 of 2021 are seeking quashing of the FIR bearing crime no.304 of 2021 registered with Begumpura Police Station for the offence punishable under sections 452, 354, 143, 324, 504, 506, 427 of the Indian Penal Code.

2. It appears that in respect of the incident allegedly occurred on the same date, time and place two groups have lodged the complaints against each others. Parties have arrived at amicable settlement, and, accordingly, settlement-deed is placed before us in both the matters.

3. Learned counsel appearing for the applicants in criminal application no.2238 of 2021 and the learned counsel appearing for the applicants in criminal application no.2248 of 2021 submit that, due to some misunderstanding the alleged incident had taken place, and, now they wanted to put an end to all the litigations

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between them. They have arrived at settlement out of their free will, consent and without any coercion.

4. Learned APP submits that there is one another crime bearing crime no.313 of 2021 registered on the basis of the complaint lodged by Police Constable Tukaram Manore against the members of both the groups for having committed the offence of affray punishable under section 160 of the IPC. Learned APP submits that, except this third crime, there are no antecedents. Learned APP submits that, there was a law and order problem for some time and both the groups fought at public place and disturbed the public tranquility. Even, the police machinery was used extensively to maintain the peace, law and order. Learned APP submits that appropriate costs may be saddled on the applicants in both the applications for quashing of the FIR on settlement.

5. We have carefully gone through the settlement-deed. It appears that the parties have arrived at
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settlement out of their free will, consent. They want to put an end to all litigations.

6. In a case of *Gian Singh vs. State of Punjab and others*, reported in (2012) 10 SCC 303, the Supreme Court in para 48 of the judgment has referred the guidelines framed by A five-Judge Bench of the Punjab and Haryana High Court delivered in a case of **Kulwinder Singh v. State of Punjab (2007) 4 CTC 769** for quashing of the proceedings on the basis of the settlement. The Supreme Court in paragraph no.61 of the judgment 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.

7. In the instant case, it appears that there was almost a free fight between two groups due to certain misunderstanding. There are no antecedents as such. They have decided to settle their dispute amicably without any coercion. They have decided to put a end to all the litigations between them. In view of the same, we are inclined to quash the FIRs on settlement, however, it appears that both the groups have fought at a public place disturbing the public tranquility and created law and order problem and the police force was deployed to maintain the peace and law and order. We thus find it appropriate to saddle certain costs on the applicants in both the criminal applications. In view of the same, we proceed to pass the following order.

O R D E R

- i. Criminal application No.2238 of 2021 (Rafat Yar Khan and others Vs. The State of Maharashtra and others) and Criminal application no.2248 of 2021 (Mehraj Khan Jalil Khan and others Vs. The State of Maharashtra and others) are hereby allowed.

- ii. Criminal application no.2238 of 2021 is hereby allowed in terms of prayer clause 'B'.
- iii. Criminal application no.2248 of 2021 is hereby allowed in terms of prayer clause 'B'.
- iv. Both the criminal applications are allowed subject to the payment of costs of Rs.1,000/- (Rs. One thousand) by each of the applicants in both the criminal applications to High Court Legal Services Sub-Committee and submit the receipt to that effect before this Court.
- v. Quashing of the FIRs in both the criminal applications is subject to deposit of the costs by the applicants in both the criminal applications, as directed above.

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

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