

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

CRIMINAL APPLICATION NO. 2405 OF 2021

Hitesh Ramesh Munot

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. V. A. Bagdiya, advocate for the applicant

Mr. R. V. Dasalkar, APP for Respondent No.1-State.

Mr. A. S. Shejwal, advocate for Respondent No.2.

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

DATE : 02nd December, 2021.

PC :

1 By consent, application is heard finally at admission stage.

2 The applicant-accused is seeking quashing of Crime No.44/2020, registered with M.I.D.C. CIDCO Police Station, Aurangabad, for the offences punishable under Sections 498A, 323, 504 and 506 of the Indian Penal Code and also seeking quashing of the criminal proceedings bearing RCC No. 565 of 2020, pending before the Judicial Magistrate, First Class, Aurangabad, on settlement.

3 Learned Counsel for the applicant submits that the

parties have arrived at amicable settlement and they have worked out the terms of agreement as per the Consent terms dated 24th September, 2021 (Exhibit-B at page 18 of the present application). Learned Counsel for the applicant submits that the applicant and Respondent No.2 have agreed to take all necessary steps to withdraw all the allegations made against each other and they have decided to separate permanently. Even Petition NoA-202 of 2019 filed for Divorce came to be withdrawn in terms of the settlement arrived at between the parties and they have filed a fresh joint Petition for mutual divorce under Section 13B of the Hindu Marriage Act, bearing Petition No.F-265 of 2021. Learned Counsel for the applicant submits that even care has been taken to pay certain amount as permanent alimony to Respondent No.2-wife.

4 Learned Counsel for Respondent No.2 submits that Respondent No.2 has filed consent affidavit. The applicant has agreed to pay Rs.5,31,00,000/- (Rs. Five Crores Thirty One lakhs) to Respondent No.2 towards one time full and final settlement of her claim and even the said amount has been deposited before the Family Court, Aurangabad, in the pending petition. It is agreed between the parties that Respondent No.2 will withdraw the said

amount after the decree of divorce is granted.

5 We have also heard the learned A.P.P. for Respondent No.1-State.

6 We have carefully gone through the contents of Consent terms and affidavit filed by Respondent No.2. It is clear that the parties have arrived at an amicable settlement and accordingly terms of the settlement are worked out. It appears that they have agreed to withdraw all the pending proceedings, including Petition No.C-13 of 2018, filed before the Family Court at Aurangabad, under the provisions of Prevention of Women from Domestic Violence Act, 2005, Petition No.A-202 of 2019 for divorce, filed before the Family Court, Aurangabad, Regular Criminal Case No. 565 of 2020 in relation to present crime, and also Civil Writ Petition No.14151 of 2019, pending before this Court.

7 It further appears that the applicant has paid substantial amount of Rs.5,31,00,000/- (Rs. Five crores Thirty One lakhs) to Respondent No.2 towards permanent alimony and also on other counts, as detailed in para no.3 of the Consent Terms dated 24th September, 2021. It appears that care has also been taken to

mention in the Consent terms that Respondent No.2-wife is entitled to take all her belongings, as enlisted in para no.5 of the Consent terms dated 24th September, 2021, which include various silver articles, kitchen articles and utensils, etc. It, thus, appears that the parties have arrived at an amicable settlement voluntarily.

8 In the case of *Gian Singh vs. State of Punjab and others*, reported in *(2012) 10 SCC 303*, the Hon'ble Supreme Court, in para 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*. The five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the judgments of the Supreme court in the cases of *Madhu Limaye v. State of Maharashtra (1977) 4 SCC 551*, *State of Haryana v. Bhajan Lal 1992 Supp (1) SCC 335*, *State of Karnataka v. L. Muniswamy (1977) 2 SCC 699*, *Simrikhia v. Dolley Mukherjee (1990) 2 SCC 437*, *B.S. Joshi v. State of Haryana (2003) 4 SCC 675* and *Ram Lal v. State of Jammu and Kashmir (1999) 2 SCC 213*, has framed the guidelines for quashing of the criminal proceeding on the ground of

settlement. Clause (a) of the said guidelines is relevant which is reproduced herein below :

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

9 The Hon'ble Supreme Court, in para No.61 of the judgment in the case of ***Gian Singh vs. State of Punjab and others (supra)***, has made the 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 pre-dominantly 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.”

10 In view of the above 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:

(i) Criminal Application is allowed in terms of prayer clause “B”.

11 Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V. K. JADHAV)
JUDGE