

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

60 CRIMINAL APPLICATION NO.2415 OF 2021

YOGESH RAMKISAN GADEKAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mr. Dhawale Bhushan S
APP for Respondent-State: Mr.
Advocate for Respondent No.2 : Mr. A.B. Jagtap
.....

**CORAM : V. K. JADHAV AND
SANDIPKUMAR, C. MORE, JJ.
DATED : 20th DECEMBER, 2021**

PER COURT:-

1. The applicants are seeking quashing of the F.I.R bearing crime No. 117 of 2021 registered with Hasnabad police station, Tq. Bhokardan, District Jalna for the offences punishable under sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and also seeking quashing of the proceedings bearing R.C.C. No 877 of 2021 pending before J.M.F.C. Bhokardan, District Jalna arising out of the aforesaid crime.
2. Learned counsel for the applicants submits that the parties have arrived at amicable settlement and in terms of the said settlement, respondent No.2 and applicant No.1 (husband of respondent No.2) have agreed to stay together for rest of their life.
3. Learned counsel for respondent No.2 submits that respondent No.2 has filed affidavit in reply to that effect. It is stated in the

affidavit in reply that there was love marriage between applicant No.1 and respondent No.2. However, due to certain misunderstanding, they had started residing separately. After their misunderstanding became clear, respondent No.2 willingly left her parental home and has started cohabitation with applicant No.1. At present, respondent No.2 is residing with applicant No.1 and she has no complaint against applicant No.1 as well as applicant Nos. 2 and 3. Respondent No.2 does not wish to continue with the prosecution or the impugned report as she has settled the matter amicably with the applicants.

4. We have also heard learned A.P.P. for the respondent-State.

5. It appears that due to certain misunderstanding, the applicant No.1 and respondent No.2 had started residing separately, however, now they are residing together. Respondent No.2 has no complaint against applicant No.1 as well as applicant Nos. 2 and 3. She does not wish to continue with the prosecution.

6. In the case of ***Gian Singh vs. State of Punjab and others***, reported in **(2012) 10 SCC 303**, the 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 other offences are introduced for aggravation of the case.”*

7. Thus, the 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.”

8. It appears that the parties have settled their dispute amicably and they have arrived at settlement voluntarily. In view of above and the ratio laid down by the Supreme court in the above cited case, we are inclined to pass the following order:-

O R D E R

- I. Criminal application is allowed in terms of prayer clauses “B” and “C1”.
- II. Criminal application is disposed of accordingly.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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