

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

940 CRIMINAL APPLICATION NO.3057 OF 2019

1. Siddesh s/o. Pandharinath Wagh,
Age-31 year, Occu. - Service,
R/o. 1018, Sushma Apartment,
Shukrawar Peth, Near MSEB Office,
Tilak Road, Pune-411002.
2. Pandharinath s/o. Karbhari Wagh,
Age-67 Year, Occu.-Retired,
R/o. Sai vision, S.No. 78/60,
Plot No.1, Building B, Flat No.104,
Pimpale Saudagar,
Pune, Dist.Pune – 411 017.
3. Mangla w/o. Pandharinath Wagh,
Age-61 year, Occu. Housewife
R/o. 1018, Sushma Apartment,
Shukrawar Peth, Near MSEB Office,
Tilak Road, Pune-411 002.
4. Dipti w/o. Sanjiv Shinde,
Age- 41 Year, Occu. - Housewife,
R/o. 2/A, Vrundavan Society, Panchawati,
Pasghan Road, Near NCL, Pashan,
Pune, Dist. Pune – 411 008.
5. Monali w/o. Manish Mahabhole,
Age-37 Year, Occu. - Housewife,
R/o. S.No.87/1A/1 Kshitij,
House No. B-602, Near 9 Green Park,
Sahakarnagar-2,
Pune, Dist.Pune- 411 009.
6. Vaishnavi w/o. Mahendra Tandale,
Age- 38 Year, Occu. - Service,
R/o. Flat No.101, B-wing, Sai Vaastu,

Pimple Saudagar, Pune City
Aundh Camp, Pune-411 027.

7. Amruta w/o. Prasad Bidve,
Age-34 year, Occu. - Service,
R/o. 1018, Sushma Apartment,
Shukrawar Peth, Near MSEB Office,
Tilak Road, Pune-411 002 .. **APPLICANTS**
[Orig.Accused]

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Kadim Jalna,
Tal. And District Jalna.
2. Sau. Anagha w/o. Siddesh Wagh,
Age 28 year, Occ. Household,
R/o. Bhagya Nagar, Old Jalna,
Kadim Jalna, District Jalna. ..**RESPONDENTS**
[Orig.Complainant]

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Mr.N.T.Tribhuwan, Advocate for the applicants
Mr.S.J.Salgare, APP for the respondent-State
Mr.Swapnil S.Patunkar, Advocate for respondent no.2.

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CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.
DATE : 21.10.2021

PER COURT :

1] By consent of the parties, heard finally at the admission stage.

2] The applicants are seeking quashment of the FIR bearing Crime No.245/2019, registered with Police Station Kadim Jalna for the offences punishable under Section 498-A,

323, 504 r/w. 34 of the IPC and also seeking quashing of the criminal proceedings on settlement.

3] Learned counsel for the applicants submits that applicant no.1 – husband and respondent no.2 – complainant wife have arrived at amicable settlement and even terms of the compromise are worked out between the parties. Learned counsel submits that in terms of the said compromise, applicant no.1 and respondent no.2 have approached Family Court by filing a joint petition for mutual divorce and in terms of the said petition, it is agreed between the parties that applicant no.1 will pay amount of Rs.15,40,000/- towards permanent alimony and out of the said amount, applicant no.1 has already deposited the amount of Rs.7,00,000/- before the Family Court, Jalna in Petition No. F-55/2021. It is also agreed between the parties that after decree of divorce is passed by the trial Court, the entire amount will be paid to respondent no.2. It is also agreed between the parties that respondent no.2 will not prosecute the proceedings and she undertakes to give consent to quash the FIR and also R.C.C.No. 658 of 2019 along with the proceedings already initiated under the provisions of the Protection of Women from Domestic Violence Act bearing Application PWDVA No.33/2019 pending before the Additional Chief Judicial Magistrate-2, Jalna.

4] Learned counsel for respondent no.2 submits that

the parties have filed joint *pursis* before this Court. Applicant no.1 and respondent no.2 have agreed to settle all the disputes. Since 11th December, 2018, they are residing separately from each other. They have also filed Petition No. F-55/2021 for mutual divorce, which is pending before the Family Court, Jalna. In the said Petition, applicant no.1 has deposited the amount of Rs.7,00,000/- as part satisfaction towards permanent alimony as against the total amount of Rs.15,40,000/-. Respondent no.2 has also waived all her rights towards movable and immovable properties of applicant no.1. It is further agreed between them that respondent no.2 will not prosecute R.C.C.No.658 of 2019 pending before the Chief Judicial Magistrate, Jalna, against the applicants and his family members. So far as pending proceedings bearing Application PWDVA No. 33/2019, which is pending before the Additional Chief Judicial Magistrate-2, Jalna, is concerned, respondent no.2 has undertaken to withdraw the said proceedings.

5] Learned counsel for the parties submit that applicant no.1 and respondent no.2 are also present in the Court premises.

6] We have carefully gone through the terms of compromise, it appears that the parties have arrived at settlement voluntarily. It also appears that applicant no.1 has taken care of future maintenance of respondent no.2 and

deposited the substantial amount towards permanent alimony.

7] In the case of **Gian Singh Vs. State of Punjab and another**, reported in 2012 (10), the Supreme Court, by referring the guidelines framed by the Five Judge Bench of the Punjab and Haryana High Court in [Kulwinder Singh and others v. State of Punjab and another](#), has made observations in para 61 of the judgment, which is reproduced herein-below:

“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-dominatingly 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.”

The Supreme Court has referred clause ‘a’ of the guidelines framed by the Five Judge Bench of the Punjab and Haryana High Court and said clause ‘a’ 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.

b.....

c.....

d.....

e.....

f.....

8] In view of the above and since the parties have arrived at settlement and also filed a joint petition for decree of mutual divorce, we proceed to pass following order:

ORDER

- i] Leave to add prayer clause B-1 for quashing of the criminal proceedings vide R.C.C.No. 658 of 2019.
- ii] Criminal Application is allowed in terms of prayer clauses-B and B-1.
- iii] Application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

[V. K. JADHAV, J.]

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