

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.299 OF 2020

- | | | | |
|----|-----------------------------------|---|----------------|
| 1. | Uday Ulhas Dambe |] | |
| 2. | Ulhas Uttamrao Dambe |] | |
| 3. | Vimal Ulhas Dambe |] | |
| | all R/o. Shivajinagar, Ward No.2, |] | |
| | Tal. Shegaon, Dist. Buldana. |] | |
| 4. | Ramchandra Vitthal Satre. |] | |
| 5. | Shilpa Ramchandra Satre, |] | |
| | Both R/o. 701, Girija Neelkanth |] | |
| | Heights, Baramati. |] | |
| 6. | Bhalchandra Sahadev Mohite |] | |
| 7. | Shweta Bhalchandra Mohite |] | |
| | Both R/o. 1902, Pioneer, Opp. |] | |
| | Vartaknagar Police Station, |] | |
| | Baramati. |] | ... Applicants |

Versus

- | | | | |
|----|----------------------------------|---|------------------|
| 1. | The State of Maharashtra |] | |
| | (At the instance of Baramati |] | |
| | Police Station.) |] | |
| 2. | Gauri Uday Dambe |] | |
| | R/o. Bhigwan Road, Shivajinagar, |] | |
| | Near JBS Township, Baramati, |] | |
| | Pune. |] | Respondents |

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This order stands corrected as per speaking to the minutes order dated 23.02.2021.

Mr. Ganesh Gole i/b Mr. Ateet Shirokdar for the applicants.

Mr. J.P. Yagnik, A.P.P. for respondent-State.

Mr. Ritesh Ratnam for respondent No.2.

Respondent No.2 is present in the court.

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**CORAM: S.S. SHINDE &
MANISH PITALE, JJ.**

DATED : 11TH FEBRUARY, 2021.

ORAL JUDGMENT:- [S.S. Shinde, J.]

1. Rule. Rule made returnable forthwith. With the consent of learned counsel appearing for the parties, heard finally.

2. Learned counsel appearing for the applicants and respondent No.2 jointly submit that the parties have amicably settled the dispute and to that effect, consent terms have been filed before the 8th Joint Civil Judge, Senior Division, Pune. Respondent No.2 has also filed an affidavit about the settlement arrived at between the parties. Since the said affidavit is part of the present proceedings, it is not necessary to reproduce the contentions of the said affidavit. Suffice it to state that the parties have arrived at an amicable settlement and consent terms have been filed before the 8th Joint Civil Judge, Senior Division, Pune.

3. Respondent No.2 is present before this court. She has been

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identified by her counsel. We have interacted with her. She has stated that it is her voluntary act to enter into the settlement and give consent for quashing the FIR.

4. We have heard learned counsel appearing for the parties. It is true that some of the offences are serious in nature but the fact remains that the entire dispute arise out of a matrimonial discord and in view of the fact that respondent No.2 has voluntarily, without any coercion, entered into an amicable settlement, we are of the opinion that no fruitful purpose would be served by continuing the pending proceedings arising out of the said FIR and, therefore, the application deserves to be allowed.

5. It is informed by learned counsel appearing for the applicants that one of the terms of settlement is that the applicants shall pay an amount of Rs.37 lakhs to respondent No.2 towards full and final settlement, out of which, an amount of Rs.11 lakhs is already paid to respondent No.2 by Demand Draft and the remaining amount of Rs.26 lakhs is deposited with the 8th Joint Civil Judge, Senior Division, Pune. Learned counsel for respondent No.2 does not dispute the said statement.

6. The Supreme Court in the case of *Gian Singh v. State of Punjab & Anr.*¹ has held that the criminal cases having

¹ (2012) 10 SCC 303
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overwhelmingly and predominately civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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. It has also held that 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.

7. Having regard to the amicable settlement arrived at between the parties and that the consent terms have been filed before the 8th Joint Civil Judge, Senior Division, Pune and in view of the fact that respondent No.2 has decided not to participate in the criminal proceedings, we are of the opinion that the chance of conviction of the applicants is bleak and remote and, therefore,

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the continuation of further proceedings arising out of the said case would be an exercise in futility and would tantamount to abuse of process of the court.

8. In the light of the discussions in the foregoing paragraphs and in order to secure the ends of justice and to prevent the abuse of the process of the court, we are inclined to allow this application. Accordingly, the application is allowed in terms of prayer clause (B) of the application, which reads as follows:

“(B) That this Hon’ble Court be pleased to quash and set aside the C.R. No. C.R. No.I-280 of 2017 dated 26.04.2017 registered with Baramati Police Station, Baramati for offences punishable under sections 376, 377, 498A, 323, 504, 506 r/w. 34 of the Indian Penal Code as well as the Chargesheet pending before the Ld. Addl. Sessions Baramati, at Baramati in R.C.C. No.564 of 2017.”

9. Rule made absolute in the above terms.

10. The application stands disposed of accordingly.

(MANISH PITALE, J.)

(S.S. SHINDE, J.)

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