

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2041 OF 2021

Vipul Mohanlal Khandelwal & Ors. Petitioners
versus
State of Maharashtra & Anr. Respondents

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- Mr.Kapil Dave, Advocate for Petitioner.
- Ms.S. D. Shinde, APP for State/Respondent No.1.
- Mr.Shivanand Mishra, Advocate for Respondent No.2.

**CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, J.**

DATE : 26 NOVEMBER 2021

P.C. :

. The Petition is filed with following prayer for quashing the charge-sheet;

“(a) That this Hon’ble Court may be pleased to quash and set aside the charge-sheet filed in C.C. No.PW/1002280/2019 pending before the Ld.M.M. 10th Court, At Andheri, Mumbai arising out of C.R./FIR No.263 of 2018 dated 28th May 2018 registered with D.N. Nagar Police Station.”

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2. This Petition is filed on the basis that Respondent No.2 and the Petitioners have settled their dispute and the Respondent

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No.2 has given consent for quashing of the charge-sheet. Learned counsel for the Petitioner and Respondent No.2 relied on the decision of the Apex Court in the case of *Gian Singh Vs. State of Punjab and another*¹ more particular the following paragraph ;

“The position that emerges from the above discussion can be summarized 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

1 (2012) 10 Supreme Court Cases 303

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.”

3. In the context of this request we have considered the facts of the case. By consent taken up for disposal.

4. The Respondent No.2 is wife of the Petitioner No.1, the Petitioner No.2 is the father-in-law, the Petitioner No.3 is the mother-in-law, the Petitioner No.4 is the sister-in-law, the Petitioner No.5 is the husband of Petitioner No.4 and the Petitioner No.6 is cousin of the Petitioner No.1. The Respondent No.2 has filed the FIR under section 498-A, 354, 377, 328, 504, 506, 509, 406 r/w 34 of the Indian Penal Code. The Petitioner alleged that she was subjected to mental and physical cruelty and demands of dowry.

5. Learned counsel for the parties have drawn our attention to compromise-cum-settlement deed dated 28 June 2020, which they say, have been arrived through the mediation and intervention of the relatives. The parties have agreed that the Petition under section 13-B of Hindu Marriage Act, 1955, was to be filed for joint decree of dissolution of marriage at Family Court, Jaipur and certain payments to be made. The settlement deed also contemplates withdrawal of proceedings filed by the Respondent No.2 against the Petitioners, which includes the present FIR.

6. The Respondent No.2 has filed an affidavit sworn before the officer of this Court, after showing identity documents. The advocate for the Respondent No.2 has reiterated its contents on instructions. He also states that affidavit is filed by the Respondent No.2 pursuant to the settlement and without coercion.

7. Having perused the contents of the FIR and the settlement deed it is clear that the submissions that the case falls within the parameters of law laid down by the Apex Court in the case of Gian Singh as above, is correct. In view of the settlement arrived at, not quashing the FIR would result in disharmony in the family and will obstruct the settlement process. The charge-sheet is the consequence of a domestic dispute and it does not have repercussion on the society. Nothing is pointed out to us as to why benefit of this legal position should not be extended to the parties.

8. Accordingly the Writ Petition is allowed in terms of prayer clause (a) as above.

9. Order accordingly.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)