

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.2518 OF 2021

Rajiv Ramesh Mantri
and another

.... Petitioners

Versus

The Senior Inspector of Police
and others

.... Respondents

....

WITH

CRIMINAL WRIT PETITION NO.2546 OF 2021

Rajendra Ramesh Mantri
and another

.... Petitioners

Versus

The State of Maharashtra
and another

.... Respondents

....

Mr. Aabad Ponda, Senior Advocate a/w Shailesh Kharat, for the
Petitioners in WP/2518/2021.

Ms. Bhagyashri Ranade, Advocate for the Petitioners in
WP/2546/2021 and for Respondent No.2 in WP/2518/2021.

Mr. Ajit Hodage, Advocate for Respondent No.2 in WP/2546/2021.

Ms. S.D. Shinde, APP for the Respondent-State in both Petitions.

....

**CORAM : NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE : 30 NOVEMBER 2021

P.C.

. Heard the learned counsel for the parties.

2. These two petitions are on board along with Criminal Writ Petition No.2548/2021 which will be pertaining to the assignment of learned Single Judge and in which we have passed an order to that effect. These three Petitions refer to a family dispute which now stands resolved.

3. In Criminal Writ Petition No.2518/2021, the prayer is as follows :

“a) That this Hon’ble Court may be pleased to pass appropriate orders/writ/directions and quash and set aside all the proceedings pertaining to Criminal case bearing R.C.C. No.90/2013 which is pending on the file of the Ld. Chief Judicial Magistrate, Alibag arising out of FIR bearing No.48 of 2011 registered with the Alibag Police Station, Dist. Raigad;”

As regards Criminal Writ Petition No.2546/2021, the prayer is as follows :

“a) That this Hon’ble Court may pass appropriate orders/writ/directions and quash and set aside all the proceedings arising out of Criminal case bearing Police Case PW No.1068/2017 which is pending on the file of the Ld. Metropolitan Magistrate, 65th Court, Andheri, Mumbai arising out of FIR bearing M.E.C.R. No.2 of 2013”

4. Criminal Writ Petition No.2518/2021 is filed by Rajiv Ramesh Mantri and Mayuri Amit Mhatre, daughter of Rajiv Ramesh Mantri. Respondent No.2 therein is Rajendra Ramesh Mantri, brother of Petitioner No.1.

5. Criminal Writ Petition No.2546/2021 is filed by Rajendra Ramesh Mantri and Supriya Rajendra Mantri, who are husband and wife. Respondent No.2 therein is Dinesh Ramesh Mhatre, father-in-law of Mayuri Amit Mhatre who is daughter of Rajiv Ramesh Mantri.

6. At the request of the parties and by consent of the learned APP, taken up for disposal.

7. The learned counsel appearing for the Petitioners and the complainants in both the petitions state that this long standing family dispute over property was resolved and in Civil Writ Petition No.10176/2019 Rajiv Ramesh Mantri, Mayuri Amit Mhatre, Rajendra Mantri and others entered into consent terms and the Civil Writ Petition was disposed of on 5 May 2021 in terms of the consent terms. The consent terms also refers to the pending criminal proceedings, two of which are the present petitions. The parties have arrived at an understanding in respect of their properties and monetary consideration is also contemplated.

8. In both these Petitions i.e. in Writ Petition

Nos.2518/2021, the Respondents Rajendra Ramesh Mantri and in Writ Petition No.2546/2021 Dinesh Ramesh Mhatre have filed their consent affidavits and they refer to the understanding arrived at between them and in both the matters these Respondents have stated that they have no objection if the FIRs are quashed.

9. The learned counsel for the Petitioners and the complainants submit that these criminal proceedings arising from purely domestic dispute can be quashed by consent in light of the decision of the Hon'ble Supreme Court in the case of *Gian Singh* , more particularly the following observations :

“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 provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil favour 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.”

(emphasis supplied)

10. In light of this request made, we have examined the proceedings in both these Petitions. In Writ Petition No.2518/2021, the FIR was lodged with an allegation that the Petitioners have created false signature and had prepared a Power of Attorney and had sought to sale the property. In Writ Petition No.2546/2021, the allegations are that the Respondent complainant confronted the Petitioners in respect of their amount that was to be paid and when validity of the transactions were questioned the Petitioners became angry and threatened that the amount should be immediately paid. This act is treated as extortion and the complaint was filed.

11. The incidents in the Petitions relate to the year 2011 and 2013. The dispute over the property is admittedly a family dispute. The relations between brothers, and in-laws had become acrimonious and it appears therefore that even heated conversations have been treated as extortion, when it was simply a quarrel over family property. The complainants by filing affidavits have clarified that it was nothing but a property dispute and these FIRs and complaints were filed out of misunderstanding and because of the strained relationships which is now resolved.

12. It is quite clear that the parties wish to put their past behind. If the FIRs and the proceedings are not quashed, the entire family will remain embroiled in litigation and prosecution, which will in fact not serve the interest of justice. None of the parties will support the prosecution. The disputes also does not have ramifications on the society at large.

13. In light thereof, both the petitions are allowed in terms of prayer clause (a), extracted hereinabove.

14. However, the request of the learned APP that the parties should be directed to pay costs is justified. Each of the parties shall pay Rs.25,000/- to the Police Welfare Fund, Maharashtra within a period of four weeks from today. The present order is passed conditional to the same.

15. The petitions are accordingly disposed of in above terms.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)

Deshmane (PS)

PRADIPKUMAR
PRAKASHRAO
DESHMANE

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