

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 CRIMINAL APPLICATION NO.188 OF 2022

PRAVIN ANIL JAGTAP AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Patil Ujwal Subhash
APP for Respondent-State: Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. Patil Prafullasing H
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 8th MARCH, 2022**

PER COURT:-

1. With consent of the parties heard finally at admission stage.
2. The applicants are seeking quashing of the F.I.R. bearing No. 415 of 2021 registered with Parola police station, District Jalgaon for the offences punishable under Section 498-A, 406, 323, 504, 506 r.w. 34 of I.P.C. on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the applicants and learned counsel for respondent No.2 informant submit that the applicants and respondent No.2 decided to settle the dispute by way of amicably. In view of the same, respondent No.2 has given her consent for withdrawal of all proceedings filed by her including the present crime registered at her instance. Learned counsel submits that both the parties have filed a

joint petition bearing HMP No. 10 of 2022 for decree of divorce with mutual consent in terms of the provisions of Section 13(B) of Hindu Marriage Act, 1955 before Civil Judge, Senior Division, Chalisgaon in terms of the settlement arrived at between the parties. The applicant No.1 husband has agreed to pay an amount of Rs.12,50,000/- (Rupees Twelve lacs) to respondent No.2 and out of the said amount, an amount of Rs.6,25,000/- (Rupees Six lacs and twenty five thousand) is already paid to respondent No.2 wife. Learned counsel for respondent No.2 submits that respondent No.2 has filed affidavit about settlement and though the said fact of receipt of the amount to the tune of Rs.6,25,000/- (Rupees Six lacs and twenty five thousand) is not specifically mentioned in the affidavit, however, he submits that the balance amount of Rs.6,25,000/- (Rupees Six lacs and twenty five thousand) will be paid by the applicants to respondent No.2 on the date of final decision of H.M.P. No. 10 of 2022.

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

5. We have carefully gone through the contents of the complaint so also the police papers. We have also gone through the affidavit in reply filed on behalf of respondent No.2. The parties have placed before us the copy of HMP No. 10 of 2022 pending before the C.J.S.D. Chalisgaon. It appears that the parties have arrived at amicable settlement voluntarily and the care has also been taken to

grant lump-sum amount for future maintenance to respondent No.2.

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 referred the view expressed by five-Judge Bench of the Punjab and Haryana High Court in the judgment delivered in the case of ***Kulwinder Singh v. State of Punjab (2007) 4 CTC 769*** and further referred the guidelines framed by the Punjab and Haryana High Court in the said case for quashing of proceedings on the basis of settlement. The Supreme court has also reproduced the guidelines of Punjab and Haryana High Court in para 48. So far as present application is concerned, the guidelines as mentioned in para 21(a) 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. Thus, after going through the contents of application and the affidavit filed by respondent No.2 and further the contents of petition bearing HMP No. 10 of 2022, we are satisfied that the parties have arrived at amicable settlement voluntarily and in view of the same and in terms of ratio laid down by the Supreme Court in the case Gian Singh (supra) we proceed to pass the following order;

O R D E R

- i) Criminal application is allowed in terms of prayer clause "A".
- ii) Criminal application is accordingly disposed of.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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