

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

970 CRIMINAL APPLICATION NO.236 OF 2022

ABDUL RAHEEM ABDUL RAUF
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. M. P. Tripathi
APP for Respondent no.1-State: Mr. S. J. Salgare
Advocate for Respondent no.2 : Mr. Moinuddin N. Shaikh

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 17th MARCH, 2022.

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P. C. :

1. Heard finally with consent of the parties at admission stage.
2. The applicant is seeking quashing of the FIR bearing Crime No. 145 of 2021 registered with Police Station Parali City, Parali, District Beed for the offence punishable under Sections 420, 504 and 506 of IPC on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the applicant and learned counsel appearing for respondent no.2 submits that the parties have arrived at amicable settlement due to intervention of the village elderly persons. The applicant is the real son of respondent no.2.

After death of the father, the applicant allegedly withdrawn certain amount from the bank account of his deceased father without consent of respondent no.2. Learned counsel submits that however, in terms of the settlement, the applicant has deposited the entire amount in terms of the order passed by the learned Single Judge of this Court on 29th October, 2021 in Anticipatory Bail Application No. 1256 of 2021. Learned counsel for the applicant, on instructions from the applicant, submits that the applicant has no objection if the said amount deposited in Anticipatory Bail Application No. 1256 of 2021 is withdrawn by respondent no.2 in terms of the settlement arrived at between the parties. Learned counsel submits that respondent no.2 has filed consent affidavit in reply, wherein it is specifically mentioned that the daughters of respondent no.2 have also no objection for quashing of the FIR.

4. We have also heard the learned APP for respondent no.1-State. Learned APP submits that there are no instructions about antecedents of the applicant. However, this is the dispute between mother and son and further on perusal of the anticipatory bail order, we do not find any such antecedents recorded in the order by the learned Single Judge of this Court. It appears that the parties

have arrived at amicable settlement due to intervention of the elderly persons and further the applicant-son who is a businessman has deposited the entire disputed amount before this court in terms of the order passed by the learned Single Judge of this Court dated 29th October, 2021 in Anticipatory Bail Application No. 1256 of 2021. It further appears that the applicant has no objection, if the said amount is withdrawn by respondent no.2 herein. It further appears from the contents of the consent terms that respondent no.2 has no objection about the will-deed executed by the deceased father. We are of the opinion that the parties have arrived at amicable settlement voluntarily.

5. In the case of ***Gian Singh vs. State of Punjab and others***, reported in ***(2012) 10 SCC 303*** in para No.61 the Hon'ble Supreme Court 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. : (1) 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the 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 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, High Court may quash 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. 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. In view of the above discussion and in terms of ratio laid down by the Supreme Court in the above cited case, we proceed to pass following order.

O R D E R

The criminal application is allowed in terms of prayer clause "B" and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-