

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

932 CRIMINAL APPLICATION NO.544 OF 2022

HIRALAL SHANKAR CHAVAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mrs. Manjushri V. Narwade
APP for Respondent-State: Mr. S.D. Ghayal
Advocate for Respondent no.2 : Mr. D.K. Rajput
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 12th APRIL, 2022**

PER COURT:-

1. By consent of the parties, heard finally at admission stage.
2. The applicants are seeking quashing of the F.I.R. No.99 of 2014 registered with Taluka police Station, Jalna Tq. and District Jalna for the offences punishable under Section 498A, 323, 494 r.w. 34 of I.P.C. and under sections 3 and 4 of the Dowry Prohibition Act, 1961 and also seeking quashing of the proceeding bearing R.C.C. No.331 of 2014 pending before the Chief Judicial Magistrate, Jalna on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the applicants and learned counsel for respondent No.2 submit that this crime is of the year 2014, however, the trial is yet not commenced. Within few days after registration of the crime, respondent No.2 has resumed her cohabitation with applicant No.1 husband. Respondent No.2 informant is residing with

her husband i.e. applicant No.1 from last seven years and couple has been blessed with one son and one daughter thereafter. Respondent No.2 is not willing to prosecute her complaint further. Learned counsel for respondent No.2/informant submits that the consent affidavit of respondent No.2 is filed to that effect.

4. We have also heard the learned A.P.P. for respondent No.1 State. Learned A.P.P., on instructions in writing from the investigating officer, submits that the said case bearing R.C.C. No. 331 of 2014 is still pending before the Court and the trial is yet not commenced. The said case is simply posted showing attendance of the accused.

5. 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 taken by the five-Judge Bench of the Punjab and Haryana High Court in ***Kulwinder Singh v. State of Punjab (2007) 4 CTC 769*** and particularly quoted para 21 and referred the guidelines framed by the five-Judge Bench for quashing of the proceedings on the basis of settlement. Guideline under clause 21(a) which is relevant for the present discussion reads as under :

“21.

(a) *Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.”*

6. 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.”

7. In the instant case, though the compromise has taken place between the applicant No.1-husband and respondent No.2-wife and pursuant to the said compromise, the respondent No.2 wife has started cohabitation with her husband alongwith other applicants in her matrimonial home, still then the case bearing R.C.C.No.331 of 2014 arising out of the crime No.99 of 2014 is still pending before the Court. After respondent No.2 resumed cohabitation with applicant No.1 husband, during the period of seven years, after registration of the crime, the couple is blessed with one son and one daughter, who is 8 years of age. Learned counsel appearing for respondent No.2 submits that even the the matter is compromised between the parties

prior to seven years as the daughter is 8 years of age.

8. In view of the above and in terms of the ratio laid down by the Supreme court in the above cited case, we proceed to pass the following order :-

ORDER

- I. Criminal application is allowed in terms of prayer clauses "A" and "B".
- II. Criminal application is disposed of accordingly.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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