

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

964 CRIMINAL APPLICATION NO. 905 OF 2020

SUBHASH S/O. MANOHAR GHUGE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Thombre S. S.
APP for Respondent No.1-State : Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. R. G. Hange

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WITH
CRIMINAL APPLICATION NO. 451 OF 2020

SUSHILA W/O MOTIRAM RAKH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Dnyaneshwar B. Pokale
APP for Respondent No.1-State : Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. R. G. Hange

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WITH
CRIMINAL WRIT PETITION NO. 203 OF 2020

1. RAMESH SHIVAJI KHANDARE
2. JAGANNATH RAMBHAU KHANDARE
3. MARUTI VITTHAL KHANDARE
4. SHIVAJI VITHAL KHANDARE
5. PARMESHWAR LAHU KHANARE
6. HARIBHAU VITHAL KHANDARE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

.....

Advocate for Petitioners : Mr. N. R. Thorat
APP for Respondent No.1-State : Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. R. G. Hange

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WITH
CRIMINAL APPLICATION NO. 95 OF 2020

TEJAS S/O SUBHASH NEHARKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Dnyaneshwar B. Pokale
APP for Respondent No.1-State : Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. R. G. Hange

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 12th JANUARY, 2022**

PER COURT:-

1. Leave to carryout amendment in the prayer clause in Criminal Writ Petition No. 203 of 2020, so also leave to add the Sessions Case number in the prayer clause in Criminal Application No. 95 of 2020 and Criminal Application No. 451 of 2020.
2. The applicants/petitioners in all these four applications/writ petition are seeking quashing of the FIR bearing crime no. 325 of 2019 registered with Beed (Rural) Police Station for the offence punishable under Sections 306, 506 r/w 34 of IPC and also seeking quashing of the proceedings bearing Sessions Case No. 178 of 2021

pending before the Additional Sessions Judge, Beed, on the ground that the parties have arrived at an amicable settlement.

3. Learned counsel for the applicants/petitioners in all these four matters submits that the deceased was the husband of respondent no.2-informant and he had allegedly committed suicide on account of harassment caused to him by the applicants/petitioners on various occasions. Learned counsel appearing for the applicants/petitioners submit that the allegations are vague. Firstly, it has been alleged that there were serious allegations about commission of rape against the cousin of deceased, namely, Dnyaneshwar Khandare and in connection with the said crime, the relatives of the victim girl had repeatedly insisted the husband of respondent no.2-informant to cause mediation in that matter and settle the same by giving certain amount to them. It is also alleged in the complaint that those relatives of the victim girl were also threatening the deceased husband of respondent no.2-informant that in case he would not try for the settlement, he will also be arraigned as an accused person in connection with the said crime. Thus, deceased husband of respondent no.2-informant was taking stress about the said incident. Secondly, there are also allegations in the complaint that the deceased husband of respondent no.2 was taking stress in respect of

measurement of the agricultural land and that his uncle and uncle's sons used to give him threats by making a phone call in connection with the said measurement of the agricultural land. The deceased husband of respondent no.2 was also taking stress of that. It is also alleged in the complaint that deceased husband of respondent no.2 was getting frequent threatening calls from one unknown number and therefore, he was also taking stress of that. Learned counsel appearing for the applicants/petitioners submit that the suicide note though mentioned the names of all the applicants/petitioners, however, it is not clear from the allegations made in the said suicide note as to who is actually responsible for the suicidal death of deceased husband of respondent no.2.

4. Learned counsel appearing for the applicants/petitioners in all the four matters and the learned counsel appearing for respondent no. 2 submit that the parties have now arrived at an amicable settlement. Respondent no.2 has also filed an affidavit-in-reply to that effect. Learned counsel for respondent no.2 submits that the applicants/petitioners and respondent no.2 are relatives of each other and due to intervention of respectable persons from the village Karegavan and the relatives of both the parties, the matter has been amicably settled in order to keep good relations between them in

future. Thus, respondent no.2 do not want to prosecute the case further and she has no objection to quash the proceedings bearing R.C.C. No. 177/2020 (Sessions Case No. 178 of 2021).

5. We have also heard learned APP for the respondent-State.

6. It appears that respondent no.2-informant has made the allegations mainly on the basis of the suicide note. A reference has been given in the complaint about the said suicide note and the possibility of suicide of the husband of respondent no.2 on three counts. It thus appears that the allegations are somewhat vague in nature and on the basis of such allegations, the possibility of conviction is very bleak. Furthermore, the parties have arrived at an amicable settlement due to intervention of the respectable persons of their village and also for the reason that the applicants/petitioners and respondent no.2 are relatives. In order to maintain good relations in future, the parties have arrived at an amicable settlement. It appears that the parties have arrived at the settlement voluntarily.

7. In the case of *Narinder Singh and others v. State of Punjab and others*, reported in (2014) 6 SCC 466 [MANU/SC/0235/2014], in para no. 31, the Supreme Court after referring various decisions on

the subject, laid down the principles by which the High Courts would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of Cr.P.C. while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceeding. The said principles are summed up in para 31, Clause (III) of which is relevant for the present discussion and reproduced herein below:

“31(III) Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

In terms of the said clause (III), the Supreme Court has laid down that such a power of quashing of the proceedings on settlement is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity, murder, rape, dacoity etc. Such

offences are not private in nature and have serious impact on the society. In the instant case, the offence does not fall in the said category and appears to be private in nature having no serious impact on the society.

8. In the case of ***State of Maharashtra through CBI v. Vikram Anantrai Doshi***, reported in (2014) 15 SCC 29, while considering the issue of quashing on the basis of settlement of dispute between the parties, the Supreme Court has given weightage to the nature and gravity of the offence and its societal impact. The Supreme Court has also referred the principles laid down in the case of ***Gian Singh vs. State of Punjab and another***, reported in (2012) 10 SCC 303.

9. In the case of ***Gian Singh vs. State of Punjab and another***, reported in (2012) 10 SCC 303, the Supreme Court in para 48 has quoted para 21 of the judgment of the five-Judge Bench of the Punjab and Haryana High Court delivered in ***Kulwinder Singh v. State of Punjab*** (2007) 4 CTC 769. Clause 21(e) which is relevant for the present discussion is reproduced herein below:

“21. (e). The offences against human body

other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by public servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter VII (relating to army, navy and air force) must remain non-compoundable .”

10. Thus, considering the entire aspect of the case, we are satisfied that the parties have arrived at an amicable settlement voluntarily in order to keep good relations between them in future. They are relatives *inter se*. In view of the same and the ratio laid down by the Supreme Court in the above cited cases, we proceed to pass the following order:

ORDER

- I. Criminal Application No. 905 of 2020 is allowed in terms of prayer clauses “B” and “C-1”.
- II. Criminal Application No. 451 of 2020 is allowed in

terms of prayer clauses “B” and “F”.

III. Criminal Writ Petition No. 203 of 2020 is allowed in terms of prayer clause “B”.

IV. Criminal Application No. 95 of 2020 is allowed in terms of prayer clauses “B” and “F”.

V. All the four matters are disposed off accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)