

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

62 CRIMINAL APPLICATION NO.480 OF 2018

RUKMINI W/O. SITARAM KALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Applicants : Mr. Deshmukh Sachin S.

APP for Respondents : Mr. K S Patil

Advocate for Respondent 2 : Mr. Londhe S S

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.

Dated : March 21, 2022

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PER COURT :-

1. Leave to correct the name of father of the applicant no.6 in the title clause.
2. Heard finally with consent of parties at admission stage.
3. The applicants/original accused are seeking quashing of the FIR bearing crime No.173 of 2017 registered with Sengaoon Police Station, District Hingoli for the offence punishable under sections 498-A, 323, 504, 506, 34 of the Indian Penal Code on the ground that the parties have arrived at amicable settlement.

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4. Learned counsel for the applicants and the learned counsel appearing for respondent no.2 submit that the parties have arrived at amicable settlement and thus filed a joint settlement purshis in HMP No.A-340 of 2020 before the Family Court, Aurangabad. It is agreed between the parties to go for the dissolution of the marriage on the ground of non-consummating the marriage and the applicant no.6-husband/Sudarshan shall pay an amount of Rs.2,50,000/- (Rs. Two Lacs fifty thousand) towards marriage expenses and also return the golden ornaments to the respondent no.2 Jayashri. Learned counsel for respondent no.2 submits that respondent no.2 has received the said amount in cash and also received the golden ornaments. Learned counsel for respondent no.2 submits that respondent no.2 has no objection for quashing of the FIR on the basis of the settlement.

5. Learned counsel appearing for the parties have also placed before us the decree of divorce passed by the Family Court, Aurangabad dated 7.3.2022 in application

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No.A-340 of 2020 under section 13-B(1) of the Hindu Marriage Act, 1955.

6. We have also heard the learned APP for the respondent/State.

7. We have carefully gone through the contents of the complaint and the police papers. We have also gone through the joint affidavit filed by the parties before us. It appears that the parties have arrived at amicable settlement in the pending application No.A-340 of 2020 before the Family Court, Aurangabad. It appears that in terms of the said settlement arrived at between the parties, the learned Judge of the family Court, Aurangabad has passed a decree of divorce on mutual consent by judgment and order dated 7.3.2022.

8. In a case of **Gian Singh Vs. State of Punjab and others**, 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 Vs. State of**

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Punjab (2007) 4 CTC 769. A five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the various judgments of the Supreme court, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of ***Kulwinder Singh's judgment*** is reproduced by the Supreme Court in para 48 of the judgment in ***Gian Singh***. 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.”

The Supreme Court in paragraph no.61 of the judgment of Gian Singh (supra) has made 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

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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 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.

9. It appears that as per the terms of the settlement, the applicant no.6 Sudarshan Sitaram Kale, husband of respondent no.2 has paid Rs.2,50,000/- towards marriage expenses and also returned the golden ornaments to the respondent no.2. Further, parties have also obtained a decree of divorce by mutual consent in terms of the provisions of Section 13 (b) of the Hindu Marriage Act, 1955 vide application No.A-340 of 2020. We are satisfied that the parties have arrived at amicable settlement, voluntarily.

10. In view of the above discussion and in terms of the ratio laid down by the Supreme Court in the case of

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Gian Singh (supra), we proceed to pass the following order.

O R D E R

- i. Criminal application is hereby allowed in terms of prayer clause 'A'.
- ii. Criminal application accordingly disposed off.

(SANDIPKUMAR C. MORE, J.) (V.K. JADHAV, J.)

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