

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

974 CRIMINAL APPLICATION NO.677 OF 2022

ARJUN YASHWANT KAMBALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Reddy Ajinkya
APP for Respondent no.1-State: Mr. S. D. Ghayal
Advocate for Respondent no.2 : Mr. Muhammad Aseem h/f
Mr. Sayyed Tauseef

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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 applicants are seeking quashing of the proceeding bearing RCC No. 1212 of 2018 pending before 10th Judicial Magistrate (First Class), Aurangabad pursuant to the Crime No.11 of 2018 for the offence punishable under Sections 498A, 323, 504, 506 read with 34 of IPC and Section 3 and 4 of Dowry Prohibition Act on the ground that the parties have arrived at amicable settlement.

3. Learned counsel for the applicants and the learned counsel for respondent no.2 submit that during pendency of the proceeding before the Magistrate, husband of respondent no.2 passed away on 09/06/2018. The copy of the death certificate of the deceased husband namely Pradeep Arjun Kamble is annexed and marked as Exhibit-B to the main application. Learned counsel submit that applicant nos. 1 to 4 and respondent no.2 after much deliberation have come to the conclusion that after the death of husband and since respondent no.2 has also re-married, no purpose would be served in continuation of the earlier proceedings. Learned counsel submits that respondent no.2 has started new innings of her life. Thus, respondent no.2 have no objection if the proceeding bearing Regular Criminal Case No. 1212 of 2018 pending before 10th Judicial Magistrate (First Class), Aurangabad arising out of the FIR bearing No.11 of 2018, registered with Mukundwadi Police Station, Aurangabad is quashed.

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

5. We have carefully gone through the contents of the complaint and the charge sheet and also carefully gone through an affidavit in reply filed by respondent no.2. It appears that the parties have arrived at amicable settlement after the death of husband of

respondent no.2. The husband of respondent no.2 died on 09/06/2018. Applicant no.1 is father-in-law, applicant no.2 is mother-in-law, applicant no.3 is married sister-in-law and applicant no.4 is husband of applicant no.3. As per the contents of the affidavit, respondent no.2 also got re-married and as such she is not interested in prosecuting the proceedings.

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 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**. The five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of *Kulwinder Singh* 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.”

7. In para No.61 of the case **Gian Singh** (supra), 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.”

8. We are satisfied that the parties have arrived at amicable settlement voluntarily. Further respondent no.2 also got re-married. In view of the same 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 "A" and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-