

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

909 CRIMINAL APPLICATION NO.685 OF 2022

BALASAHEB DEORAO NIPUNGE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.D. Kotkar, Advocate for applicants.

Mr. A.V. Deshmukh, A.P.P. for respondent No. 1- State.

Mr. R.R. Karpe, Advocate for respondent No. 2.

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

DATED : 5th May 2022.

P.C. :

1. Heard finally with consent at the admission stage.

2. The applicants are seeking quashing of F.I.R. bearing Crime No.954/2021 registered with Newasa Police Station, District Ahmednagar for the offences punishable under Sections 306, 504 and 506 read with Section 34 of the Indian Penal Code and consequential proceedings bearing Sessions Case No.25/2022 pending before the Additional Sessions Judge, Newasa, on the ground that the parties have arrived at amicable settlement.

3. Learned Counsel for the applicants and learned Counsel appearing for respondent No. 2 – informant submit that the parties have arrived at compromise and compromise terms between the parties are placed before us. Learned Counsel appearing for the parties submit that the parties before the Court are the blood relatives, and therefore, they have decided to settle the dispute. Learned Counsel for the parties submit that petitioner No. 1 Balasaheb and father of respondent No. 2 are the real brothers and father of respondent No.2 namely Popat has instituted a suit bearing R.C.S. No. 55/2022 before the Civil Judge (Junior Division), Newasa against the defendants including the present applicant Nos.1 and 2 and in the said suit, present respondent No.2 is also defendant No. 5. They submit that after unfortunate death of mother of respondent No.2 – informant, the parties have compromised the civil suit and also decided to settle the present dispute. The parties have arrived at compromise considering their future prospects and to maintain the cordial relations. Respondent No.2–informant is a Professor. Learned Counsel for respondent No. 2 submits that both the parties have filed compromise terms signed by each of them. Further, the order passed by the 3rd Joint Civil Judge (Junior Division), Newasa is also placed on record. The

learned Civil Judge (Junior Division), Newasa has disposed of R.C.S. No.55/2022 in terms of compromise effected between the parties.

4. We have also heard learned A.P.P. for respondent No.1 – State.

5. We have carefully gone through the contents of complaint and also perused the charge-sheet. We have also perused the compromise terms arrived at between the parties. It appears that there was civil litigation between the parties in respect of the agricultural land. They are close relatives. It appears that the incident had taken place on 14.12.2021. On that day quarrel had taken place between the two families on account of the said civil dispute. It has been alleged in the complaint that the present applicants abused and threatened the informant in consequence of which mother of respondent No. 2 had committed suicide by hanging herself to the iron angle of the roof of the house. It has been alleged that the applicants have abated commission of the suicide. It appears that there is only one incident which is alleged to have been occurred on 14.12.2021, as referred in the complaint. The parties are close relatives. The parties have arrived at

compromise and accordingly the civil suit, which was pending before the Court, also ended into the compromise.

6. In the case of ***Gian Singh vs. State of Punjab and others***, reported in ***(2012) 10 SCC 303***, the Supreme Court in para 61 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.”

7. In the instant case, considering the relations between the parties and considering that the respondent No.2, who is a Professor, has filed consent affidavit, we are satisfied that the parties have arrived at amicable settlement voluntarily. In view of the same 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 hereby allowed in terms of prayer clauses [B] and [BB].
- (ii) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)