

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

904 CRIMINAL APPLICATION NO. 733 OF 2022

ASHOK MURLIDHAR GHODKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Bhingardeo Sumedh S. &
Mr. Kamble Pravin N.

APP for Respondent No.1 : Mr. S. S. Dande
Advocate for respondent No.2 : Mr. R. N. Jadhav.

...

AND

905 CRIMINAL APPLICATION NO. 734 OF 2022

ATUL ASHOK GHODKE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Bhingardeo Sumedh S.
and Mr. Kamble Pravin N.

APP for Respondent No.1 : Mr. S. S. Dande
Advocate for Respondent No.2 : Mr. R. N. Jadhav.

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AND

906 CRIMINAL APPLICATION NO. 750 OF 2022

ATUL ASHOK GHODKE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Bhingardeo Sumedh S.
and Mr. Kamble Pravin N.

APP for Respondent No.1 : Mr. S. S. Dande
Advocate for Respondent No. 2 : Mr. R. N. Jadhav.

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.
Dated: April 29, 2022
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PER COURT :-

1. The applicants in all these criminal applications are seeking quashing of the crimes registered on the basis of the complaints lodged by respondent no.2 Rani Atul Ghodke (wife of applicant Atul Ashok Ghodke) in criminal application Nos.733 of 2022 and 750 of 2022 and her father Sahebrao Jayram Chabukswar i.e. respondent no.2 in criminal application No. 734 of 2022.

2. So far as criminal application no.733 of 2022 is concerned, the applicant/accused is seeking quashing of the FIR bearing crime no.353 of 2020 registered with Chawani Cantonment Police Station, Aurangabad for the offence punishable under sections 354-A, 354, 506 of the IPC and also consequential proceedings by way of RCC No.2260 of 2021 pending before the J.M.F.C., Aurangabad.

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The applicants in criminal application no.750 of 2022 are seeking quashing of the FIR bearing Crime No.62 of 2021 registered with Chawani Cantonment Police Station, Aurangabad for the offence punishable under sections 498-A, 323, 504, 506, 34 of the IPC and consequential proceedings by way of RCC No.1654 of 2021 pending before the Judicial Magistrate First Class, Aurangabad.

The applicants in criminal application no.734 of 2021 are seeking quashing of the FIR bearing Crime No.3 of 2021 registered with the same Police Station for the offence punishable under sections 324, 323, 504, 506, 34 of the IPC and consequential proceedings by way of RCC No.1199 of 2021 pending before the Judicial Magistrate First Class, Aurangabad.

3. In all these applications, quashing of the crimes and the consequential proceedings, as above, is sought on the ground that the parties have arrived at amicable settlement.

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4. Crime No. 353 of 2020 (RCC No.2260 of 2021) for the offence punishable under sections 354-A, 354, 506 of IPC came to be registered on the basis of the complaint lodged by respondent no.2 Rani w/o Atul Ghodke i.e. daughter in law of the applicant Ashok Murlidhar Ghodke. Crime No.62 of 2021 for the offence punishable under sections 498-A, 323, 504, 506 r/w 34 of IPC (RCC No.1654/2021) came to be registered on the basis of the complaint lodged by the same complainant Rani w/o Atul Ghodke against her husband and other in laws. Crime No.3 of 2021 for the offence punishable under sections 324, 323, 504, 506 r/w 34 of the IPC (RCC No.1199 of 2021) came to be registered on the basis of the complaint lodged by the father of the said Rani w/o Atul Ghodke.

5. Learned counsel for the applicant/s and the counsel appearing for the respective respondent no.2/informants in all these criminal applications submit that the parties have arrived at amicable settlement, voluntarily. The applicant/accused Atul

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Ashok Ghodke and the complainant Rani have decided to get separated from each other and they had filed petition No.F-303 of 2021 for a decree of divorce by mutual consent in terms of section 13-B of the Hindu Marriage Act. It is also agreed between them that an amount of Rs.2,00,000/- will be paid to the respondent/complainant Rani Ghodke towards her permanent alimony. The learned counsel appearing for the parties submit that out of the said amount, Rs.1,00,000/- is deposited in the Family Court in the pending petition for decree of divorce and the remaining amount will be paid after withdrawal of the proceedings.

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

7. We are satisfied that the parties have arrived at amicable settlement and care has also been taken to grant certain amount to the complainant Rani towards her future maintenance.

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8. 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***. 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 :-

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“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 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. 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 No.733 of 2022 (Ashok s/o Murlidhar Ghodke Vs. The State of Maharashtra and another), criminal application No.750 of 2022 (Atul s/o Ashok Ghodke and others Vs. The State of Maharashtra and another) and criminal application No. 734 of 2022 (Atul s/o Ashok Ghodke and another Vs. The State of Maharashtra and another) are hereby allowed in terms of prayer clause '**B**' respectively.
- ii. All the criminal applications are accordingly disposed off.

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

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