

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CRIMINAL APPLICATION NO. 738 OF 2022

BHARAT RAMSINGH PAWAR AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mr. Chaitanya V. Dharurkar
APP for Respondent-State : Mr. S. D. Ghayal
Advocate for Respondent No.2 : Mr. A. S. Mirajgaonkar
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 27th APRIL, 2022**

PER COURT:-

1. By consent of the parties, heard finally at admission stage.
2. The applicants accused are seeking quashing of FIR No. 74 of 2016 registered with Fardapur police station, Tq. Soygaon, District Aurangabad for the offences punishable under Sections 354, 506 r.w. 34 of I.P.C. and also consequential proceedings bearing R.C.C. No 103 of 2016 pending before the J.M.F.C. Soygaon, on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the applicants submits that the trial is already commenced and despite filing of an application by the applicants accused for examination of defence witness, the trial court, by rejecting the said application, kept the matter for pronouncing the judgment. Further, by order dated 18.4.2022 when

this fact was brought to the notice of this Court, this Court has granted ad-interim stay in terms of prayer clause 'D' till 26.4.2022.

4. Learned counsel for the applicants and learned counsel appearing for respondent No.2 submit that the parties are relatives *inter se*. They are closely knit due to family relations. There would be occasions when both sides need each other's support and help. Thus, in order to maintain cordial relations, the parties have arrived at amicable settlement and accordingly tendered compromise pursis in the Court of J.M.F.C., Soygaon in the pending case. Copy of *Sulehnama* dated 27.1.2022 filed by the applicants and respondent No.2 is placed on record and marked Exh. 'R-1'. However, by order dated 27.1.2022, the J.M.F.C., Soygaon was pleased to reject the said application solely on the ground that the offences allegedly committed by the applicants accused are non compoundable. Learned counsel for respondent No.2 submits that respondent No.2 has filed consent affidavit and she is having no grievance against the accused persons. She has settled the dispute with the applicants voluntarily. Respondent No.2 has thus no objection if the F.I.R. and the consequential proceedings are quashed.

5. Learned A.P.P. has strongly resisted the application on the ground that the trial is already commenced and now the matter is posted for pronouncing the judgment. Learned A.P.P., on instructions in writing from the concerned Investigating Officer, submits that there

are no antecedents of the applicants.

6. Learned counsel for the applicants and learned counsel appearing for respondent No.2 submit that in terms of the ratio laid down by the Supreme Court in the case of **Ramgopal v. State of Madhya Pradesh**, reported in **AIR ONLINE 2021 SC 1356** and further, in the case of **Ramawatar v. State of Madhya Pradesh**, reported in **2021 SCC Online SC 966**, the criminal proceedings involving nonheinous offences or where the offences are predominantly of private nature, could be set aside at any stage of the proceedings, including at the appellate level.

7. In the case of **Ramgopal vs. State of Madhya Pradesh** (supra), in para 13 and 19, the Supreme Court has made the following observations:-

"13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness

of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors.³ and Laxmi Narayan (Supra).

19. We thus sum up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

8. In the case of **Ramawatar v. State of Madhya Pradesh** (supra), in para 11, by referring para 19 of the **Ramgopal's** case (supra), the Supreme Court has made the following observations:-

“11. The Court in Ramgopal (Supra) further postulated that criminal proceedings involving non-heinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level. The Court, however, being conscious of the fact that unscrupulous offenders may attempt to escape their criminal liabilities by securing a compromise through brute force, threats, bribes, or other such unethical and illegal means, cautioned that in cases where a settlement is struck post conviction, the Courts should, inter-alia, carefully examine the fashion in which the compromise has been arrived at, as well as, the conduct of the accused before and after the incident in question. While concluding, the Court also formulated certain guidelines and held:

*“19... Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: **(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.**” [Emphasis Applied]*

9. It is thus clear that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. can be invoked beyond the metes and bounds of Section 320 Cr.P.C. However, as observed by the Supreme court in the

above cited case, such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) nature and effect of the offence on the conscious of the society; (ii) seriousness of the injury, if any; (iii) voluntary nature of compromise between the accused and the victim; and (iv) conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

10. We have carefully gone through the contents of the complaint. It appears that the incident has occurred on 13.9.2016 at about 5.30 a.m. when respondent No.2, who is a married woman, was sweeping the front yard of her house. At that time, applicant No.1 Bharat had come to her and touched her back and caught hold of her hand. Thus, respondent No.2 has extended beating to him with the help of broom and further woke up her husband and parents. It appears that in the evening time, both the applicants again went the house of respondent No.2 and quarreled with them as to why respondent No.2 has made issue of small incident. Though respondent No.2 has deposed before the trial court as per the allegations made in the complaint, however, she has deposed in her examination-in-chief itself that though respondent No.2 and her family members have settled the dispute, but still then the applicants were not responding properly and thus, the family of respondent No.2 has preferred to lodge the complaint in the concerned police station.

11. It thus appears that some incident had taken place in the morning time and the same is predominantly of private nature. The parties are relatives *inter se*. It further appears that though the matter was immediately settled between the parties after the alleged incident, in order to keep the applicants accused under pressure, the complaint came to be lodged in the concerned police station. Now the parties have arrived at amicable settlement and they have decided to end their dispute permanently. Learned counsel for the parties inform us that the parties are neighbours. They have settled the dispute voluntarily. Since the matter is predominantly of private nature, there is no question of impact of the same on the conscious of the society.

12. Thus, considering entire aspect of the case and in terms of the ratio laid down by the Supreme Court in the above cited cases, we are inclined to quash the F.I.R. and the proceedings. Hence, the following order:-

ORDER

- I. Criminal application is allowed in terms of prayer clauses "B" and "C".
- II. Criminal application is accordingly disposed of.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)