

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

956 CRIMINAL APPLICATION NO.593 OF 2020

SUNIL S/O. KARBHARI DOHALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. B. G. Sagade Patil
APP for Respondent No.1-State: Mr. R. D. Sanap
Advocate for Respondent no.2 : Mr. R. B. Temak

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

DATED : 25th JANUARY, 2022.

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P. C. :

1. By the consent of the parties, heard finally at the stage of admission.
2. The applicant is seeking quashing of the F.I.R. bearing Crime No.0034 of 2020, registered with Newasa Police Station, District Ahmednagar for the offence punishable under Sections 406 and 420 of IPC. The applicant / accused is also seeking quashing of the proceeding bearing RCC No. 40 of 2021 pending before Judicial Magistrate (First Class), Newasa, on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the applicant and the learned counsel for respondent no.2 informant submit that the petitioner and

respondent no.2, who are well acquainted with each other, residing in Newasa town they want to maintain harmonious and good relations amongst them in future. Thus, they have decided to settle the dispute amicable on the terms and conditions as detailed in the compromise pursis signed by both the parties placed before this court. Learned counsel appearing for respondent no.2 informant submits that as per the terms and conditions of the said compromise, respondent no.2 informant has received the entire amount. Thus, respondent no.2 informant is not willing to proceed with the said criminal case.

4. We have also heard learned APP for the respondent no.1-State.

5. We have carefully gone through the contents of the complaint. It appears that the present applicant is the proprietor of Sainath Krushi Seva Kendra. Respondent no.2 informant has approached to him for purchasing drip irrigation. The petitioner has thus, given him quotation of Rs.1,96,361/-. It further appears that respondent no.2 informant has transferred an amount of Rs.1,00,000/- in account of the petitioner and further on 30/11/2019 paid an amount of Rs.60,000/- in cash. It has been alleged in the complaint that thereafter, even though the substantial amount has been paid by respondent no.2 informant,

the petitioner has not supplied the said drip irrigation material. On the other hand, he has refused to refund the amount. It now appears that the parties have settled their dispute amicably. We have carefully perused the terms of the compromise. They both are residing in Newasa town and well acquainted with each other. They have decided to settle their dispute to maintain the good relations between them in future. As per the terms of the compromise, it is agreed between them that the petitioner shall pay the amount of Rs.1,60,000/- to respondent no.2 before this court and further agreed to pay an amount of Rs.40,000/- more as a compensation. It is mentioned in the compromise terms itself that an amount of Rs.40,000/- is already received by respondent no.2 informant. Learned counsel for respondent no.2 informant has made a statement before us that respondent no.2 has received the remaining amount of Rs.1,60,000/- in cash.

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.

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. So far as the present case is concerned, the allegations made in the complaint is having a civil flavour. Further, this is purely a transaction about purchasing of drip irrigation exclusively between the petitioner, who happened to be the owner of Sainath Krushi Seva Kendra and respondent no.2 informant. Respondent no.2 informant has now received the entire amount along with compensation. We are satisfied that the parties have arrived at amicable settlement voluntarily.

9. In view of above and in terms of the ratio laid down by the Supreme Court in the above cited cases, we proceed to pass the following order.

O R D E R

- I) Criminal application is hereby allowed in terms of prayer clause "B and B-1".
- II) Criminal application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-