

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

CRIMINAL APPLICATION NO. 729 OF 2019

01 Nivas s/o Namdeo Solanke,
age: 28 years, Occ: Service,
as Driver on School v an,
R/o Ravalgaon, Tq. Sailu,
District Parbhani.

02 Rajebhau s/o Prakashrao Shere,
age: 30 years, Occ: Service,
as Ward Boy, R/o Shere Galli,
Shailu, Tq. Shailu,
District Parbhani.

03 Balu s/o Yuvraj Jadhav,
age: 25 years, Occ: Service,
as Driver on School Van,
R/o Ravalgaon, Tq. Sailu,
District Parbhani.

Applicants

Versus

01 The State of Maharashtra,
through Police Station, Sailu,
Tq. Sailu, District Parbhani.

02 Ashok s/o Shivaji Watode,
age: 33 years, Occ: Service,
Junior Clerk, A. P. M. C., Sailu,
Tq. Sailu, District Parbhani.

Respondents

Mr. Manish P. Tripathi, advocate for the applicants
Mr. M. M. Nerlikar, APP for Respondent No.1-State.
Mr. P. B. Gapat, advocate for Respondent No.2.

WITH

CRIMINAL APPLICATION NO.730 OF 2019

01 Ravindra s/o Vitthalrao Dasalkar,

age: 34 years, Occ: Agril. And
Chairman of A. P. M. C., Sailu,
R/o Khupsa, Tq. Sailu,
District Parbhani.

02 Prakash s/o Devidas Patil,
age: 55 years, Occ: Service,
as Secretary of A. P. M. C. Sailu,
R/o Laxman Nivas, Ganeshnagar,
Shailu, Tq. Shailu,
District Parbhani.

03 Dinkar s/o Bhausahab Wagh,
age: 44 years, Occ: Agril. And
Director of A. P. M. C., Sailu,
R/o Pimpri (Bk), Moregaon,
Tq. Sailu, District Parbhani.

Applicants

Versus

01 The State of Maharashtra,
through Police Station, Sailu,
Tq. Sailu, District Parbhani.

02 Mahadeo s/o Uddhavrao Sable,
age: 35 years, Occ: Service,
Dnyanteerth Balwadi,
Market Yard, Sailu,
Tq. Sailu, District Parbhani.

Mr. P. B. Gapat, advocate for applicants.
Mr. M. M. Nerlikar, A. P. P. for Respondent No.1-State.
Mr. Manish P. Tripathi, advocate for Respondent No.2.

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

DATE : 02nd May, 2022.

PC :

1 By consent of learned Counsel for respective parties,
heard finally at the stage of admission.

2 In both the matters, the parties have arrived at an amicable settlement and they are seeking quashing of the First Information Report/Criminal proceedings.

3 The applicants in Criminal Application No. 729 of 2019, are seeking quashing of the First Information Report bearing Crime No. 202/2018, registered with Police Station Sailu, for the offences punishable under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), 1989 and under Sections 327, 323, 504, 506 of the Indian Penal Code as also consequential proceedings bearing Special (Atrocity) Case No. 04 of 2019, pending before the Sessions Judge-1, Parbhani, whereas, applicants in Criminal Application No. 730 of 2019 are seeking quashing of the First Information Report bearing Crime No. 201/2018, registered with Police Station Sailu, for the offences punishable under Sections 143, 452, 354, 323, 504 and 506 of the Indian Penal Code.

4 Learned Counsel for the applicants/accused and learned Counsel appearing for Respondent No.2-complainant in both the matters submit that the applicants in Criminal Application No. 729 of 2019 are the school employees of the school

run by the Institution Shriram Prathishthan at Sailu and Respondent No.2 is the Junior Clerk serving in A. P. M. C. at Sailu. Learned Counsel for the parties submit that the applicants in Criminal Application No. 730 of 2019 are the office bearers of A. P. M. C., Sailu and Respondent No.2-complainant is an employee of the School run by said Shriram Prathishthan.

5 Learned Counsel for the parties submit that there is a civil dispute pending between said Shriram Prathishthan and A. P. M. C., Sailu. Thus, due to certain misunderstanding, both the parties lodged complaints against each other. Learned Counsel submit that the parties have now amicably settled their dispute and they have no objection for quashing of the proceedings initiated against each other. They have filed consent affidavit to that effect in both the matters.

6 We have also heard learned A. P. P. for the Respondent-State. Learned A. P. P. submits that the so far as applicants in Criminal Application No.729 of 2019, are concerned, there are no criminal antecedents. The learned A. P. P. submits that so far as Criminal Application No.730 of 2019 is concerned, applicant no.1 – Ravindra s/o Vitthalrao Dasalkar, who happens to be the

Chairman of the A. P. M. C., Sailure, there are criminal antecedents against him. However, learned A. P. P. fairly accepts that those are the old cases pending against him i.e. for the years 2002, 2004 & 2008, respectively.

7 We have carefully gone through the allegations made in both the First Information Reports and also the consent affidavit filed by the respective parties.

8 So far as Criminal Application No. 729 of 2019 is concerned, same pertains to Crime No. 202/2018, in respect of which, Special (Atrocity) Case No. 04 of 2019 is pending before the Sessions Judge-1, Parbhani. There is a reference to civil dispute in the complaint. It has been stated in the complaint that the Civil Court has directed the parties to maintain *status quo* in respect of the suit property. It is stated in the complaint that consequent to the order of *status quo*, the complainant along with other employees had been to “Shetkari Nivas” for looking after the progress of the construction and at that time, the applicants/accused allegedly abused him by referring to his caste and also extended beating with fists and blows. Admittedly, none of the witnesses, including the informant, sustained injuries in the

alleged incident.

9 So far as Criminal Application No. 730 of 2019 is concerned, same pertains to Crime No. 201/2018. It appears that the said incident had also occurred on the same date and place but at different time. It has been alleged by the Respondent-complainant that while he was taking lunch in his house along with his wife, the applicants/accused entered in his house and asked them to leave the house. It has also been alleged that the applicant/accused extended beating to the informant and his wife. Both, the Respondent-complainant and his wife have filed consent affidavit.

10 It appears that the dispute between the parties is predominantly of a private nature. The parties have arrived at an amicable settlement voluntarily. There is civil dispute between the parties and the complaints are outcome of the said civil dispute.

11 In the case of *Gian Singh vs. State of Punjab and others*, reported in *(2012) 10 SCC 303*, the Hon'ble Supreme Court, in para No.61 of the judgment, 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; (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 pre-dominatingly 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.”

12 In view of the above and in terms of the ratio laid down by the Hon’ble Supreme Court in the afore-cited case, we proceed to pass the following order:

(i) Criminal Applications No. 729 of 2019 and 730 of 2019 are allowed.

(ii) So far as Criminal Application No. 729 of 2019 is concerned, the First Information Report bearing Crime No. 202/2018, registered with Police Station Sailu, for the offences punishable under Sections 3(1)(r)(s) and 3(2)(va) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities Act), 1989 and under Sections 143, 327, 323, 504, 506 of the Indian Penal Code as also consequential criminal proceedings bearing Special (Atrocity) Case No. 04 of 2019, pending before the Sessions Judge-1, Parbhani, are quashed and set aside, subject to costs of Rs.1000/- each to be deposited by the applicants before this Court within three weeks from the date of this order.

(iii) So far as Criminal Application No. 730 of 2019 is

concerned, the First Information Report bearing Crime No. 201/2018, registered with Police Station Sailu, for the offences punishable under Sections 143, 452, 354, 323, 504 and 506 of the Indian Penal Code, is quashed and set aside, subject to costs of Rs.1000/- each to be deposited by the applicants before this Court within three weeks from the date of this order.

(iv) On deposit of the cost amount before this Court, same shall be paid to the Library of Advocates' Association of Bombay High Court, Bench at Aurangabad.

14 Both the Criminal Applications are accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

adb