

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

914 CRIMINAL APPLICATION NO.878 OF 2022

SATYASHIL VASANTRAO WATHORE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Madhav C. Ghode
APP for Respondent no.1-State : Mr. S. D. Ghayal
Advocate for Respondent No. 2 : Ms. Sharda P. Chate

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

DATED : 28/04/2022.

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P. C. :

1. Counsel representing applicants, is absent. Applicant No.1 and respondent no.2 are present before us in person. Applicant no.1 submits that their counsel is not responding. Thus, applicant no.1-husband and respondent no.2 submit that advocate may be appointed for them at the expenses of the State. Respondent no.2 wife informed to us that the matter has been amicably settled between them and in terms of the settlement the respondent no.2 wife is residing with applicant no.1 husband at her matrimonial home.

2. We accordingly appoint learned counsel Mr. Madhav C. Ghode to represent applicants on *pro-bono* basis. Similarly, we appoint

learned Ms. Sharda P. Chate to represent respondent no.2 on *pro-bono* basis.

3. Heard finally with consent of the parties at admission stage.

4. The applicants are seeking quashing of the FIR bearing Crime No. 234 of 2018, registered with Begumpura Police Station, Aurangabad for the offence punishable under Sections 498A, 323, 504 and 506 read with 34 of IPC as well as consequential proceeding bearing RCC No. 330 of 2019 on the ground that the parties have arrived at amicable settlement.

5. The learned counsel for the applicants and the learned counsel appearing for respondent no.2 submit that the parties have arrived at amicable settlement out side of the court. The applicant no.1 husband and respondent no.2 wife have decided to cohabit together. The learned counsel appearing for the parties submit that respondent no.2 wife is residing with applicant no.1 husband since last five months. Learned counsel appearing for the parties submit that even applicant no.1 husband and respondent no.2 wife have filed a joint pursis Exhibit-9 to that effect in a pending matter under the provisions of Protection of Women from Domestic Violence Act, 2005 bearing PWDVA No. 625 of 2018 and by order dated 28/01/2022 the Judicial Magistrate (First Class) Court No.6, Aurangabad has disposed of the proceeding as withdrawn.

Learned counsel appearing for the parties submit that in terms of status report Exhibit-C, page no. 27 the said case is still pending and the case stage is awaiting summons. Learned counsel for the respondent no.2 submits that respondent no.2 has filed a consent affidavit to that effect.

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

7. In terms of the settlement out of the court, respondent no.2 is now residing with her husband applicant no.1 at her matrimonial home. She is residing with applicant with no.1 since last five months. Respondent no.2 has also initiated a domestic violence proceeding before JMFC and those proceedings also came to be withdrawn by filing a joint pursis in terms of the settlement out of the court. We are satisfied that the parties have arrived at amicable settlement voluntarily. Respondent no.2 wife is not interested to prosecute the complaint.

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*. 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. Para 21 of the said case of ***Kulwinder Singh*** 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.”

9. 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.”

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

ORDER

- I) Criminal Application is hereby allowed in terms of amended prayer clause "A",
- II) Criminal application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-