

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

59 CRIMINAL APPLICATION NO.947 OF 2021

SHAIKH JAINODDIN SHAIKH MAHEMOOD AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicants : Mr. Sudhakar T Mahajan
APP for Respondents: Mr. K.S. Patil
Adv. For respondent No.2 : Mr Gajanan S. Shete.

**CORAM : V.K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.
DATE : 7TH MARCH, 2022.**

PER COURT:

1] The applicants are seeking quashing of FIR bearing Crime No. 168 of 2017 registered with Kaij Police Station, Dist. Beed for the offences punishable under Sections 143, 147, 149, 323, 435, 504, 506 of IPC and also seeking quashing of proceeding vide Sessions Case No. 85 of 2018 pending before the learned Sessions Judge, Ambejogai Dist, Beed on the ground that the parties have arrived at an amicable settlement.

2] Learned counsel for applicants and learned counsel for respondent No.2 submits that due to certain misunderstanding, the respondent No.2 has filed complaint bearing Crime No. 168 of 2017. The learned counsel submits that the applicant Nos. 1 to 3 are the maternal uncles of respondent No.2 and due to the intervention of the relatives and mediators, the parties have arrived at an amicable settlement.

3] The learned counsel submits that affidavit of one of the injured Rabbana Noorkhan Pathan is filed on record and she also accept the settlement between the parties. The learned counsel submits that another injured in connection with the crime also names as Rabbana Nahed Pathan is concerned, she has sustained only two simple injuries.

4] We have also heard learned APP for the respondent State. Learned APP, on the basis of the papers submits that the respondent No.2 and the injured Rabbana, both of them have sustained simple injuries and there are also no antecedents. Learned APP submits that another injured person – Rabbana w/o. Nahed Pathan has also sustained simple injuries.

5] We have carefully gone through the contents of the complaint. It appears that the incident had taken place on account of dispute in respect of agricultural land. It has been alleged that when the informant alongwith his wife Rabbana and his brother's wife Rabana Nahed were working in the field, at that time, all the applicants, by forming an unlawful assembly alongwith the other 5 to 6 persons went in the field, abused the respondent No.2 informant and other witnesses and extended beating to them with the help of stick and stone. It appears from their medical/injury certificates that all the injured, including the informant, have sustained simple injuries.

6] The parties have arrived at an amicable settlement due to the intervention of the relatives and mediators.

7] 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

referred the view expressed by five-Judge Bench of the Punjab and Haryana High Court in the judgment delivered in the case of **Kulwinder Singh v. State of Punjab (2007) 4 CTC 769** and further referred the guidelines framed by the Punjab and Haryana High Court in the said case for quashing of proceedings on the basis of settlement. The Supreme court has also reproduced the guidelines of Punjab and Haryana High Court in para 48.

Thus, the Supreme Court in para No.61 of the judgment in the case of **Gian Singh vs. State of Punjab and others (supra)** 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 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] It appears that the grievances of the parties before us are purely individual in nature and there is no public cause involved in the matter, nor there is any loss the public property or the society. The respondent No.2 has no objection if the FIR and the proceeding in question are quashed. We are satisfied that the parties have arrived at an amicable settlement.

10] In view of the above and in view of the observations made by the Honourable Apex Court in the case cited supra, we pass the following order :-

: ORDER :

- [I] Criminal application is allowed in terms of prayer clause (B).
- [II] Criminal application is accordingly disposed of.

[SANDIPKUKAR C. MORE]
JUDGE

[V.K. JADHAV]
JUDGE.

grt/-