

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

CRIMINAL APPLICATION NO. 1595 OF 2022 WITH

Sandeep s/o Shriram Chaugule,
age: 39 years, Occ: Service,
R/o 10, Peri Palace, Near Pumping
Station, Gangapur Road, Nashik.

Applicant

Versus

01 The State of Maharashtra,
through the Police Station Officer,
Loni Police Station, Loni,
District Ahmednagar.

02 Sow. Sumati Sandeep Chaugule,
age: 37 years, Occ: Household,
R/o Saraswati Nagar, Loni (Kh.),
Tq. Rahata, District Ahmednagar.

Respondents

**WITH
CRIMINAL APPLICATION NO. 1100 OF 2021**

01 Sandeep s/o Shriram Chaugule

Deleted vide
Court's order
dated 24.08.2021.

02 Shriram s/o Shetiba Chaugule,
aged: 67 years, Occ: Pensioner,
R/o 10, Pearl Palace, Near
Pumping Station, Gangapur Road,
Nashik, Tq. & District Nashik.

03 Sow. Pramila w/o Shriram Chaugule,
aged 64 years, Occ: Household,
R/o 10, Pearl Palace, Near
Pumping Station, Gangapur Road,
Nashik, Tq. & District Nashik.

Applicants

Versus

01 The State of Maharashtra,
through the Police Station Officer,
Loni Police Station,
District Ahmednagar.

02 Sow. Sumati Sandeep Chaugule,
aged: 37 years, Occ: Household,
R/o Saraswati Nagar, Loni (Kh.),
Tq. Rahata, District Ahmednagar.

Respondents

Mr. A. M. Inamdar, advocate for the applicants
Mr. S. S. Dande, APP for Respondent No.1-State.
Mr. O. R. Markad, advocate for Respondent No.2.

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

DATE : 02nd May, 2022.

PC :

1 Leave to insert RCC Number in the prayer clause.

2 Learned Counsel for the applicants has pointed out that though the applicant-husband has filed Criminal Application No. 1100 of 2021 along with other co-accused persons, however, he has withdrawn the said application to his extent for the reason that this Court has expressed its disinclination to consider his application for quashing of the crime.

3 Learned Counsel for the applicants submits that the parties have now arrived at an amicable settlement and in view of

the same, the applicant-husband has filed instant Criminal Application for quashing of the First Information Report and the criminal proceedings on the ground of settlement. In view of the same, Criminal Application No. 1595 of 2022 is accepted and heard along with Criminal Application No. 1100 of 2021. Learned A. P. P. waives notice on behalf of Respondent No.1-State. Learned Counsel Mr. Markad waives notice on behalf of Respondent No.2.

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

5 The applicants in both the applications i.e. Criminal Application No. 1595 of 2022 and Criminal Application No. 1100 of 2021 are seeking quashing of the First Information Report bearing Crime No. 104 of 2021, registered with Loni Police Station, Tq. Rahata, District Ahmednagar, for the offences punishable under Sections 498-A, 406, 341, 323, 504 & 506 of the Indian Penal Code and criminal proceedings bearing R. C. C. No. 348 of 2021, pending before the Judicial Magistrate, First Class, Rahata, District Ahmednagar, on the ground that the parties have arrived at an amicable settlement.

6 Learned Counsel for the applicants and learned Counsel for Respondent No.2 submits that the parties have arrived at an amicable settlement voluntarily. Learned Counsel for the parties submit that due to the intervention of relatives of both the sides, the parties have arrived at an amicable settlement and they have decided to get separated permanently. Learned Counsel for the parties submit that applicant no.1 – Sandeep and Respondent No.2 – Sumati had already approached the Court of Civil Judge, Senior Division, Rahata, by filing Hindu Marriage Petition No. 74 of 2020 in terms of Section 13B of the Hindu Marriages Act for decree of divorce by mutual consent. However, the said fact has not been mentioned in the compromise pursis.

7 Learned Counsel for the parties submit that it is agreed between the parties that the applicant-husband shall pay an amount of Rs. 20,00,000/- (Rs. Twenty lakhs) to Respondent No.2-wife towards full and final settlement in respect of maintenance amount and out of the said amount, an amount of Rs. 5,00,000/- (Rs. Five lakhs) has already been paid to Respondent No.2-wife. So far as balance amount is concerned, applicant-husband has issued two post-dated cheques to

Respondent-wife each for Rs.7,50,000/- (Rs. Seven lakhs Fifty thousand) and it is agreed that said cheques will be encashed within eighteen months. It is further agreed between the parties that an amount of Rs. One lakh per year will be paid by applicant-husband to Respondent No.2-wife towards maintenance and education expenses of their minor son.

8 We have also heard learned A. P. P. for Respondent No.1-State.

9 It appears that the parties have arrived at an amicable settlement voluntarily. A care has also been taken to pay substantive amount for the future maintenance of Respondent No.2-wife. It is also agreed to pay an amount of Rs. One lakh per year for the minor son towards his maintenance and education expenses.

10 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 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, by placing reliance on the judgments of the Supreme court in the cases of *Madhu Limaye v. State of Maharashtra* (1977) 4 SCC 551, *State of Haryana v. Bhajan Lal* 1992 Supp (1) SCC 335, *State of Karnataka v. L. Muniswamy* (1977) 2 SCC 699, *Simrikhia v. Dolley Mukherjee* (1990) 2 SCC 437, *B.S. Joshi v. State of Haryana* (2003) 4 SCC 675 and *Ram Lal v. State of Jammu and Kashmir* (1999) 2 SCC 213, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Clause (a) of the said guidelines is relevant which is reproduced herein below :

“21 (a) Cases arising from matrimonial discord, even if the other offences are introduced for aggravation of the case.”

11 The Hon'ble 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 pre-dominantly 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 discussion and in terms of the ratio laid down by the Hon'ble Supreme Court in the aforce-cited

case, we proceed to pass the following order:

(i) Both i.e. Criminal Application No. 1595 of 2022 and Criminal Application No. 1100 of 2021 are allowed and disposed of as such.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

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