

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

976 CRIMINAL WRIT PETITION NO.950 OF 2019

SHRIKANT S/O. BHAGWAT KALE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

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Advocate for Petitioners : Mr. R. B. Narvade Patil
APP for Respondent no.1-State: Mr. R. V. Dasalkar
Advocate for Respondent no.2: Mr. S. C. Swami

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

DATED : 17th MARCH, 2022.

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P. C. :

1. Heard finally with consent of the parties at admission stage.
2. The petitioners are seeking quashing of the proceeding bearing RCC No. 825 of 2018 arising out of Crime No.379 of 2018, registered with M.I.D.C. Police Station, Latur pending before 2nd Joint Judicial Magistrate First Class, Latur, for the offence punishable under Section 498A, 323, 504, 506 r.w. 34 of IPC on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the petitioners and respondent no.2 submit that petitioner no.1 and respondent no.2 have arrived at amicable settlement and pursuant to the said settlement they had

filed a joint Divorce Petition No. 9 of 2021 for decree of divorce on mutual consent in terms of the provisions of Section 13(b) of the Hindu Marriage Act. Learned Judge of the Family Cour has granted decree of divorce on mutual consent by judgment and order dated 22/03/2021. The copy along with compromise pursis is annexed to the reply marked as Exhibit-R-1 collectively. Learned counsel submit that as per the terms of the compromise, petitioner no.1 husband has paid an amount of Rs.5,00,000/- through cheque to respondent no.2 and respondent no.2 has received the said amount. So far as a girl child of the couple namely Shrutika is concerned, as agreed between the parties, the custody of the said girl child will remain with petitioner no.1 husband.

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

5. We have carefully gone through the allegations made in the complaint, perused charge sheet and also an affidavit in reply filed by respondent no.2. It appears that the parties have arrived at amicable settlement voluntarily and in terms of the settlement between them, they had also obtained decree of divorce by mutual consent in terms of the provisions of 13(b) of Hindu Marriage Act by presenting the joint Petition No.9 of 2021 before the Family

Court, Latur. The learned Judge of the Family Court by judgment and order dated 22/03/2021 has also decreed the said petition.

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. 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.”

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. We are satisfied that the parties have arrived at amicable settlement voluntarily. Further it appears that the care has also been taken to give certain amount to respondent no.2 for her future maintenance.

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

O R D E R

Criminal writ petition is allowed in terms of prayer clause “B” and disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)