

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

CRIMINAL WRIT PETITION NO. 1083 OF 2021

1. Shri. Madhukar s/o. Natu Bhamre
2. Shri. Natu s/o. Khandu Bhamre
3. Mrs. Vatsalabai W/o. Natu Bhamre
4. Sanjay S/o. Natu Bhamre
5. Shri. Vasudev S/o. Natu Bhamre
6. Darshan S/o. Sanjay Sonar **...Petitioners.**

Versus

1. State of Maharashtra & Anr. **....Respondents.**

...
Advocate for Petitioners : Mrs. Rashmi S. Kulkarni
APP for Respondent 1/State : Mr. R.D. Sanap
Advocate for Respondent 3 : Mr. H.P. Randhir
...

**CORAM : V.K. JADHAV &
SANDIPKUMAR C. MORE, JJ.**
DATED : 06/01/2022

PER COURT :

- . Heard.
2. The learned A.P.P. submits that at present chargesheet has been submitted. The parties have arrived at amicable settlement and accordingly seeking quashing of the F.I.R. on the basis of amicable settlement arrived at. In view of the same, we permit the applicants to

carry out the amendment in the prayer clause to seek quashing of the proceedings forthwith.

3. By consent of parties, heard finally at admission stage.

4. The petitioners/original accused are seeking quashing of the F.I.R. bearing C.R. No.120/2021 registered with Erandol Police Station, Jalgaon on the ground that the parties have arrived at amicable settlement. The learned counsel for petitioners and the learned counsel appearing for respondent No. 2 submit that the parties have arrived at amicable settlement and accordingly terms of compromise are reduced into writing which is annexed to affidavit in reply of respondent No. 2. The learned counsel further submit that in terms of the compromise worked out between the parties, the petitioners No. 1 husband and respondent No. 2 have jointly filed petition for mutual divorce under section 13-B of the Hindu Marriage Act bearing H.M.P No. 224/2021 pending before the Civil Judge, S.D., Jalgaon. Further, the care has also been taken to grant permanent alimony of Rs.1,25,000/- and out of that amount, amount of Rs.50,000/- has been already paid to the respondent No. 2. The learned counsel for respondent No. 2 submits that they have been agreed to end their marital relations and the custody of the sole daughter is agreed to be given to respondent No. 2 mother.

5. 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*. A five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, by placing reliance on the various judgments of the Supreme court, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of *Kulwinder Singh's judgment* 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.”

The Supreme Court in paragraph no.61 of the judgment of *Gian Singh (supra)* has made 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.”

6. We have carefully gone through the contents of the affidavit in reply filed by respondent No. 2 and also the compromise annexed to the affidavit in reply. It appears that the parties have arrived at amicable settlement voluntarily. The learned counsel for petitioners has pointed out in the memorandum of compromise that the matter came to be compromised between respondent No. 2 and petitioner Nos. 1 to 5 herein. However, respondent No. 6 is the nephew and as such his name is not incorporated in the contents of memorandum of compromise. The learned counsel for respondent No. 2 submits that in view of the compromise arrived at between the parties amicably, respondent No. 2 is not interested in prosecuting the case and she is giving consent to quash the F.I.R. against all the

accused persons including the petitioner No. 6 herein.

7. In view of above submissions, compromise terms and in view of the above cited case, we proceed to pass the following order.

ORDER

- i. Criminal Writ Petition is allowed in terms of prayer clause 'A'.
- ii. Criminal Writ Petition is accordingly disposed of.

[SANDIPKUMAR C. MORE, J.]

[V.K. JADHAV, J.]

ssc/