

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

CRIMINAL APPLICATION NO. 3 OF 2021

1. Dhanraj s/o Ramji Chawale,
Age : 69 years, Occu. Nil,
 2. Prabha w/o Dhanraj Chawale,
Age : 55 years, Occu. Housewife,
 3. Rajesh s/o Dhanraj Chawale,
Age : 31 years, Occu. Service,
 4. Deepak s/o Dhanraj Chawale,
Age : 46 years, Occu. Service,
 5. Kishor s/o Dhanraj Chawale,
Age : 40 years, Occu. Service,
 6. Mahendra s/o Dhanraj Chawale,
Age : 36 years, Occu. Service,
Address of Applicant no. 1 to 6
R/o. Ramji Chawale, Plot No. 33, Naik Nagar,
Manewada Ring Road, Bhagwan Nagar,
Dist. Nagpur, State Maharashtra.
 7. Raj Kumar s/o Laxmanrao Tandiya,
Age : 56 years, Occu. Business,
Resi. C-16, Vanika F. N. Colony,
Kotra Sultanabad Huzur C.T.T. Nagar,
Bhopal State, Madhya Pradesh.
 8. Narendra Kumar s/o Laxmanrao Tandiya,
Age : 51 years, Occu. Business,
C/o. Vithalrao Tandekar, Plot No. 15,
Hudkeshwar Road, Near Nagoba Mandir,
Sudarshan Colony, New Subedar Layout,
Ayodyanagar, Nagpur, Maharashtra.
- ...Applicants**

Versus

1. The State of Maharashtra
 2. Asmita w/o Rajesh Chawale,
Age : 28 years, Occu. Service,
R/o. Swapnaja Garden, Taroda, Nanded.
- ...Respondents**

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Mr. P. M. Nagargoje, Advocate for the applicants
Mr. R. V. Dasalkar, APP for respondent/State
Mr. H. D. More, Advocate for respondent no. 2
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CORAM : SMT. VIBHA KANKANWADI
AND
RAJESH S. PATIL, JJ.

DATE : 03rd OCTOBER, 2022

ORAL JUDGMENT [PER RAJESH S. PATIL, J.] : -

1] This application is filed under Section 482 of the Code of Criminal Procedure for quashing First Information Report vide C.R. No.389/2020 registered at Bhagyanagar Police Station, Nanded for the offence punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

FACTS : -

2.1] The marriage of respondent no. 2 with applicant no. 3 was solemnized on 22.12.2019 as per Hindu rites and customs at Satvachan Mangal Karyalaya, Nagpur. They have no issue from the said wedlock.

2.2] It is the case of respondent no. 2 in the FIR that, the respondent no. 2 is a B.E. Computer Engineer. On 28.07.2019, the engagement ceremony of respondent no. 2 with applicant no. 1 took place at Nanded. As decided, the father of respondent no. 2 had transferred online Rs. 4.00 lakhs in the account of father of applicant no. 3 and thereafter cash amount of Rs. 8.00 lakhs with golden ring of two tolas was given. After the marriage, the respondent no. 2 had gone to her matrimonial house and within two days thereafter, she had returned her parental home at Nanded. Thereafter, her husband
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had come to Nanded to take her back to her matrimonial home at Nagpur. After residing with the applicants in a common shelter at Nagpur, respondent no. 2 and applicant no. 3 left for Gurugram in Haryana and started residing there in a rented room.

2.3] The respondent no. 2 has made serious allegations in the FIR against all the accused persons. When the respondent no. 2 realized that the efforts of conciliation were not bearing any fruits, she filed complaint/report against all the applicants in the police station. Accordingly, FIR was registered.

2.4] The applicants have filed the present criminal application challenging the FIR bearing Crime No. 389/2020 challenging therein that all the allegations made in the FIR are false and there was no demand of money. Since the marriage between respondent no. 2 and applicant no. 3 did not work out, the respondent no. 2 has filed the FIR out of vengeance. The allegations made therein are baseless and vague. Hence, the FIR requires to be quashed and set aside.

SUBMISSIONS : -

3] Heard Mr. P. M. Nagargoje, learned counsel for the applicants, Mr. R. V. Dasalkar, learned APP for respondent no. 1 / State and Mr. H. D. More for respondent no. 2.

4] At the outset, learned counsel for the applicants points out to this Court that the respondent no. 2 has filed a notarized affidavit dated 27.10.2021 stating therein that there has been amicable settlement between the present applicants and respondent no. 2. There was a meeting between two families and it was decided therein to file an application for mutual divorce. Learned Principal Judge of the Family Court, Nanded has passed decree of divorce on
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11.10.2021 and now the applicant no. 3 and respondent no. 2 are not husband and wife. In view of the said amicable settlement, respondent no. 2 by filing affidavit has given consent to quash the FIR registered against the applicants.

5] The submissions advanced by learned counsel Shri. P. M. Nagargoje on behalf of the applicants are also countenanced by Shri. H. D. More, learned Counsel for respondent No. 2 and learned APP for respondent no. 1 / State.

ANALYSIS : -

6] In **Gian Singh v. State of Punjab (2012) 10 SCC 303**, Apex Court has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"61. 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 proceedings or continuation of criminal proceedings 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 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 proceedings."

7] The aforesaid dictum stands reiterated by the Apex Court in a recent judgment in **Narinder Singh v. State of Punjab (2014) 6 SCC 466**. The relevant observations of the Apex Court in Narinder Singh (Supra) are as under:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the

criminal proceedings:

- 29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.
- 29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:
 - (i) ends of justice, or
 - (ii) to prevent abuse of the process of any court.While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.
- 29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.
- 29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

8. The inherent powers of the High Court ought to be exercised to prevent the abuse of process of law and to secure the ends of justice. The respondent no.2 agrees to the quashing of the FIR in question without any threat or coercion or undue influence and has stated that the matter has been settled out of her own free will. As the matter has been settled and compromised amicably, so, sgp

there would be an extraordinary delay in the process of law, if the legal proceedings between the parties are carried on. Hence, this Court is of the considered opinion that this is a fit case to invoke the jurisdiction under Section 482 Cr.P.C. to prevent the abuse of process of law and to secure the ends of justice.

9. The inherent power under Section 482 Cr.P.C. is meant to deal with the situation in the absence of express provision of law to secure the ends of justice such as, where the process is abused or misused; where the ends of justice cannot be secured; where the process of law is used for unjust or unlawful object; to avoid the causing of harassment to any person by using the provision of Cr.P.C. or to avoid the delay of the legal process in the delivery of justice. Whereas, the inherent power is not to be exercised to circumvent the express provisions of law.

10. It is settled law that the inherent power of the High Court under Section 482 Cr.P.C. should be used sparingly. The Hon'ble Apex Court in the case of **State of Maharashtra through CBI v. Vikram Anatrai Doshi and Ors.** MANU/SC/0842/2014 and in the case of **Inder Singh Goswami v. State of Uttaranchal** MANU/SC/0808/2009 has observed that powers under Section 482 Cr.P.C. must be exercised sparingly, carefully and with great caution. Only when the Court comes to the conclusion that there would be manifest injustice or there would be abuse of the process of the Court if such power is not exercised, Court would quash the proceedings.

11. It is a well settled law that where the High Court is convinced that the offences are entirely personal in nature and therefore do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would

bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, pursuing prosecution would be waste of time and energy. Non-compoundable offences are basically an obstruction in entering into compromise. In certain cases, the main offence is compoundable but the connected offences are not. In the case of **B.S. Joshi and others v. State of Haryana and another** 2003 (4) SCC 675, the Hon'ble Apex Court observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non- compoundable. In the light of the aforesaid, this Court is of the view that notwithstanding the fact the offence under Section 498A IPC is a non-compoundable offence, there should be no impediment in quashing the FIR under this section, if the Court is otherwise satisfied that the facts and circumstances of the case so warrant.

12. Since the subject matter of this FIR is essentially matrimonial, which now stands mutually and amicably settled between the parties, therefore, continuance of proceedings arising out of the FIR in question would be an exercise in futility and is a fit case for this Court to exercise its inherent jurisdiction.

13. In the facts and circumstances of this case, in view of statement made by the respondent No.2 and the compromise arrived at between the parties, the FIR in question warrants to be put to an sgp

end and proceedings emanating thereupon need to be quashed.

14. Accordingly, this Criminal Application is allowed and First Information Report vide C.R. No.389/2020 registered at Bhagyanagar Police Station, Nanded for the offence punishable under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code and the proceedings emanating therefrom are quashed against the applicants.

15. This Criminal Application is accordingly disposed of.

[RAJESH S. PATIL]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE