

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

968 CRIMINAL APPLICATION NO.2809 OF 2019

PRAKASH S/O. RAHULKUMAR BODADE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

Ms.Pallavi Wangikar h/f. Mr.R.V. Gore, Advocate for the applicants.

Mr.S.D. Ghayal, APP for the respondent/State.

Mr.S.M.Mule h/f. Mr.C.V.Dharurkar, Advocate for respondent No.2.

CORAM : V.K. JADHAV &
SANDIPKUMAR C.MORE, JJ.

DATED : 15.03.2022

PC :-

01. By consent of the parties, heard finally at admission stage.

02. The applicants are seeking quashing of FIR bearing Crime No.214 of 2019 registered with Police Station Ramanand, Tal. & Dist. Jalgaon, for the offences punishable under sections 498-A, 406, 294, 323, 504, 506, 507 of the Indian Penal Code. The applicants are also seeking quashing of proceedings bearing RCC No.622 of

2019 pending before the Court of JMFC, Jalgaon on the ground that the parties have arrived at amicable settlement.

03. Learned Counsel for the applicants and learned Counsel for respondent No.2 submit that the dispute between the parties has been amicably settled due to intervention of the relatives of the applicants and respondent No.2. In terms of the said settlement, respondent No.2 has withdrawn PWDVA No.236 of 2019 pending before the Court of JMFC, Jalgaon on 25.09.2021. Said proceedings came to be initiated on the application filed by respondent No.2 under the provisions of the Protection of Women from Domestic Violence Act, 2005. Learned Counsel appearing for the parties submit that in view of compromise between the parties, respondent No.2 is residing with applicant No.1-husband since April, 2021. They are leading happy married life. Thus, respondent No.2 has no objection for quashing of the proceedings. Learned Counsel submits that respondent

No.2 has filed affidavit-in-reply to that effect.

04. We have also heard learned APP for the respondent/ State.

05. It appears that due to intervention of the relatives from both the sides, the parties have arrived at settlement and in terms of said settlement, respondent No.2 – wife is residing with applicant No.1 – husband since April, 2021 and they are leading happy married life.

06. 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.

07. In the instant case, applicant No.1 and respondent No.2 since leading happy married life due to settlement, we are satisfied that the parties have arrived at amicable settlement voluntarily. In view of

above in terms of ratio laid down by the Supreme Court in above cited case, we proceed to pass following order :-

O R D E R

(i) The Criminal Application is allowed in terms of prayer clauses (B) and (B-1).

[SANDIPKUMAR C. MORE,J.]

[V.K. JADHAV,J.]