

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

936 CRIMINAL APPLICATION NO.18 OF 2021

RAMESHWAR DHUMA PAWAR AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

.....
Advocate for Applicants : Mr. Bora Satyajit S.
APP for Respondent-State : Mr. S.S. Dande
Advocate for Respondent No.2 : Mr. T.K. Rathod
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**CORAM : V. K. JADHAV AND
SANDIPKUMAR. C. MORE, JJ.
DATED : 27th APRIL, 2022**

PER COURT:-

1. Learned counsel for the applicants submits that the parties have arrived at amicable settlement and respondent No.2 has also filed consent affidavit to that effect. Learned counsel submits that, meanwhile, charge-sheet has been submitted. In view of the same, since the parties have arrived at amicable settlement, we dispense with the filing of an application for carrying out the amendment and we permit the applicants to carry out the amendment forthwith to seek quashing of the proceeding.
2. By consent of the parties, heard finally at admission stage.
3. The applicants accused are seeking quashing of the F.I.R. bearing crime No.376 of 2020 registered with Pundlik Nagar Police Station, Aurangabad for the offence punishable under sections 498-A, 323, 504, 506 r.w. 34 of I.P.C. and also consequential criminal

proceedings bearing R.C.C. No. 2359 of 2021 pending before the Chief Judicial Magistrate, Aurangabad on the ground that the parties have settled their dispute amicably. Learned counsel has pointed out that in the charge-sheet Sections 3 and 4 of the Dowry Prohibition Act are also added alongwith other offences.

4. Learned counsel for the applicants and learned counsel appearing for respondent No.2 submit that the parties have arrived at amicable settlement with the intervention of the relatives and common friends. Learned counsel appearing for the parties submit that applicant No.1 (husband of respondent No.2) and respondent No.2 have filed a joint petition bearing No.F-204 of 2021 before the Family Court Aurangabad for dissolution of marriage by mutual consent in terms of the provisions of Section 13-B (1) of Hindu Marriage Act. Copy of the said petition is also placed before us alongwith the affidavit filed by respondent No.2 at Exh "A" page 21. Learned counsel appearing for the parties submit that it is agreed between the parties that the applicant No.1 Rameshwar (husband of respondent No.2) shall pay an amount of Rs.16,25,000/- (Rupees Sixteen Lacs Twenty Five thousand) to respondent No.2 as one time future maintenance and at present entire amount has been deposited before the Family Court in the pending petition. It is agreed between the parties that respondent No.2 is ready and willing to withdraw the said amount after the decree of divorce by mutual consent is passed by the Family Court.

5. We have also heard the learned A.P.P. for the respondent No.1-State.

6. We have carefully gone through the contents of the complaint, the consent affidavit filed by the respondent No.2 and also the contents of the joint petition filed by the applicant No.1 and respondent No.2 before the Family Court, Aurangabad in terms of provisions of Section 13-B(1) of Hindu Marriage Act. We are satisfied that the parties have arrived at amicable settlement voluntarily and the care has also been taken to grant certain amount to respondent No.2 towards future maintenance.

7. 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 referred the view taken by the five-Judge Bench of the Punjab and Haryana High Court in ***Kulwinder Singh Vs. State of Punjab (2007) 4 CTC 769*** and particularly quoted para 21 and referred the guidelines framed by the five-Judge Bench for quashing of the proceedings on the basis of settlement. Guideline under 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.”

8. Thus, the 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.”

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

ORDER

- I. Criminal application is allowed in terms of prayer clauses “c” and “C-1”.
- II. Criminal application is disposed of accordingly.

(SANDIPKUMAR. C. MORE, J.)

(V. K. JADHAV, J.)

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