

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

925 CRIMINAL APPLICATION NO.2617 OF 2021
WITH APPLN/2508/2021

NILESH PREMKUMAR AGRAWAL AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.R.V. Gore, Advocate for the applicants.
Mr.S.J. Salgare, APP for respondent/State.
Mr.S.M. Mule, Advocate for respondent No.2.

CORAM : V.K. JADHAV &
SANDIPKUMAR C.MORE,JJ.
DATED : 29.03.2022

PC :-

01. Heard finally with the consent of learned
Counsels for the parties at the stage of admission.

02. By filing two criminal applications the
applicants in Criminal Application No.2617 of 2021 and
applicant Nilesh in Criminal Application No. 2508 of 2021
seek quashing of FIR bearing No.250 of 2021, which is
subject matter of Criminal Application No.2617 of 2021,
registered with Jawaharnagar Police Station, Aurangabad
for the offences punishable under sections 427, 447, 504

read with section 34 of the Indian Penal Code and consequential charge-sheet filed vide SCC No.139 of 2022 pending before the Judicial Magistrate, First Class, Aurangabad. By filing Criminal Application No.2508 of 2021, applicant Nilesh is also seeking quashing of FIR in Crime No.245 of 2021 registered with Jawaharnagar Police Station, Aurangabad for the offences punishable under sections 420, 406, 468, 471 of the Indian Penal Code on the ground that the parties have arrived at amicable settlement.

03. Learned Counsels for the applicants in both the Criminal Applications and the learned Counsel appearing for two different respondent No.2 - original complainant in both the Criminal Applications submit that so far as Crime No.250 OF 2021 is concerned, the same came to be registered on the basis of complaint filed by respondent No.2 - original tenant. The father-in-law of applicant No.1 - Nilesh is owner of the said property. It has been alleged in the complaint that on the basis of certain

forged documents, the accused persons including the applicants have tried to dispossess respondent No.2 - tenant.

. So far as Crime No.245 of 2021 is concerned, respondent No.2 - original complainant is father-in-law of present applicant - Nilesh and it has been alleged in the complaint that he has prepared false documents and executed sale-deed in respect of said property.

04. Learned Counsel for the applicants and respondent No.2 submit that due to intervention of close relatives/friends, the parties have arrived at amicable settlement. They have decided to put an end to all the disputes between them. So far as Criminal Application No.2617 of 2021 is concerned, learned Counsel for respondent No.2 submits that respondent No.2 original complainant (tenant of the property) has filed affidavit-in-reply of consent and he has no objection if FIR and criminal proceedings are quashed. Similarly, due to

intervention of friends and relatives, the parties have arrived at amicable settlement and accordingly respondent No.2 - original complainant (father-in-law of applicant Nilesh) has filed affidavit-in-reply of consent. They have removed all misunderstandings and misconceptions and they have decided to put an end to all the disputes between them. They are close relatives and thus decided to settle the disputes due to intervention of their relatives.

05. We have heard learned APP for the respondent/ State. Learned APP on the basis of instructions in writing from the Investigating Officer submits that there are no antecedents, so far as applicants before the Court are concerned.

06. It appears that in respect of same property the tenant as well as owner have lodged complaint against the applicants/accused persons (including applicant Nilesh who happens to be son-in-law of respondent No.2 -

complainant in Cr. Application No. 2508 of 2021). It appears that the parties have arrived at amicable settlement voluntarily. It is informed by the learned Counsel appearing for the parties that said property has been sold to one Vijay Padval and as such there is no further grievance in respect of the said property.

07. In a case of Gian Singh vs. State of Punjab and others, reported in (2012) 10 SCC 303, the Supreme Court in para 48 of the judgment has referred the guidelines framed by A five-Judge Bench of the Punjab and Haryana High Court delivered in a case of Kulwinder Singh v. State of Punjab (2007) 4 CTC 769 for quashing of the proceedings on the basis of the settlement. The Supreme Court in paragraph No.61 of the judgment 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.

08. It appears that due to intervention of the relatives and friends, the parties have arrived at amicable settlement. Further, so far as Criminal Application No.2508 of 2021 is concerned, the applicant and respondent No.2 are close relatives. In view 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

(i) Criminal Application No.2617 of 2021 is allowed in terms of prayer clauses (C) and (F).

(ii) Criminal Application No.2508 of 2021 is allowed in terms of prayer clause (C).

(iii) Both the Criminal Applications are accordingly disposed of.

[SANDIPKUMAR C. MORE,J.]

[V.K. JADHAV,J.]