

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

**979 CRIMINAL APPLICATION NO.2681 OF 2021
WITH APPLN/2909/2021**

**RIJWAN AHMED SALIM AHMED KURESHI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Shaikh Mazhar A. Jahagirdar
APP for Respondent no.1-State: Mr. R. V. Dasalkar
Advocate for Respondent no.2 : Mr. Vishal S. Kakde

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**CORAM : V. K. JADHAV AND
SANDIPKUMAR C. MORE, JJ.**

DATED : 9th MARCH, 2022.

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P. C. :

1. Heard finally with consent of the parties at admission stage.
2. The applicants in both the applications are seeking quashing of the FIR and the proceedings on the basis of settlement. Learned counsel appearing for the applicants in both the applications submit that in respect of the incident occurred on same date, time and place, both the parties have lodged complaint against each other and accordingly two separate crimes came to be registered which is the subject matter of the criminal applications before us. Learned counsel appearing for both the parties submit that the

parties are neighbourers since many years and the incident had taken place on account of some trifling reasons. It is further informed to us that due to intervention of the relatives and elderly members of the society, the parties have amicably settled their dispute. In both the matters, the original complainants have filed affidavit in reply to that effect.

3. We have also heard the learned APP for the respondent-State. Learned APP submits that so far as the applicant No.1 Rijwan Ahmed in Criminal Application No. 2681 of 2021 is concerned, there is one crime registered against him for the offence punishable under Section 354 of IPC. Learned APP submits that in Criminal Application No. 2909 of 2021 so far as applicant no.1 Mohammad Hussain is concerned, there is a crime registered against him for the offence punishable under Section 160 of IPC. However, the learned APP has fairly accepted that the present two crimes are the out come of the free fight between the neighbours on account of some trifling reasons. Learned APP has also accepts that in both the crimes the injured have sustained simple injury.

4. We have carefully gone through the FIR in both the matters. It appears that the applicants in both the applications are the neighbourers and in respect of the incident occurred on same date,

time and place, they have filed complaint against each other and on the basis of which respective crimes came to be registered with the concerned police station. The alleged incident had taken place on account of some trifling reason. There are no serious antecedents as such. The injured persons have sustained minor injuries. It further appears that due to intervention of the elderly persons of the society, the parties have arrived at amicable settlement.

5. In the case of *Gian Singh vs. State of Punjab and others*, reported in *(2012) 10 SCC 303*, in para 48 of the judgment the Supreme Court after referring the view expressed by the 5 judges bench of the Punjab and Haryana High Court and also after referring the guidelines framed by the said five judges bench of the Punjab and Haryana High Court for quashing of the proceedings on settlement in para 61 of the judgment, 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. : (1) 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the 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 a 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 the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the 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 proceeding.”

6. This is a quarrel between the neighbourers and due to the intervention of elderly persons of the society and relatives, the parties have arrived at amicable settlement. There is nothing serious in the allegations and even the injured persons have also sustained minor injuries. This appears to be an individual quarrel with no social cause involved in the matter. We are, thus, inclined to quash the FIR and proceedings. Hence, the following order.

ORDER

- I) Criminal Application No. 2681 of 2021 is allowed in terms of prayer clause "B" subject to costs of Rs.5000/- (Rs. Five thousand) to be paid by the applicants to the Library, Advocates Association of High Court Bombay, Bench at Aurangabad.
- II) Criminal Application No.2909 of 2021 is allowed in terms of prayer clause "B" subject to costs of Rs.5000/- (Rs. Five thousand) to be paid by the applicants to the Library, Advocates Association of High Court Bombay, Bench at Aurangabad.
- III) Both the applications are disposed of accordingly.

(SANDIPKUMAR C. MORE, J.)**(V. K. JADHAV, J.)**

vsm/-