

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

961 CRIMINAL APPLICATION NO.3565 OF 2022

- 1 Dhananjay Arun Jagtap,
 Age 29 yrs., Occ. Agri.,
 R/o Ketura, Post Belura,
 Tq. & Dist. Beed.
- 2 Bhausahab Vishnu Baglane,
 Age 32 yrs., Occ. Agri.,
 R/o Kakadhira, Tq. & Dist. Beed.
- 3 Ashok Ramdas Rahade,
 Age 27 yrs., Occ. Agri.,
 R/o Ketura, Post Belura,
 Tq. & Dist. Beed.
- 4 Aditya Sunil Khanpit,
 Age 24 yrs., Occ. Education,
 R/o Ketura, Post Belura,
 Tq. & Dist. Beed.

... **Applicants**

... **Versus** ...

- 1 The State of Maharashtra
 Through Police Station,
 Beed (Rural), Dist. Beed.
- 2 Mahadeo Shankarrao Talekar,
 Age 43 yrs., Occ. Agri.,
 R/o Ketura, Post Belura,
 Tq. & Dist. Beed.
- 3 Govind Kakasaheb Talekar,
 Age 32 yrs., Occ. Agri.,
 R/o Ketura, Post Belura,

Tq. & Dist. Beed.

... **Respondents**

...

Mr. S.J. Salunke, Advocate for applicants

Mr. A.M. Phule, APP for respondent No.1

Mr. D.M. Shinde, Advocate for respondent Nos.2 and 3

...

**CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.**

DATE : 25th NOVEMBER, 2022

ORDER :

1 Present application has been filed for invoking inherent powers of this Court under Section 482 of the Code of Criminal Procedure, 1973 for quashing First Information Report lodged at the behest of respondent No.2 bearing Crime No.191/2022 dated 20.06.2022 registered with Police Station, Beed (Rural), Dist. Beed, for the offence punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Section 4/25 of the Arms Act, 1959.

2 The applicants have contended that crime has been registered on the basis of First Information Report given by respondent No.2/informant, wherein it was stated that when he was returning home at about 10.10 p.m.

on 13.06.2022 his cousin Govind i.e. respondent No.3 called him on his cell phone and informed that applicant No.1 Dhananjay assaulted respondent No.3 by iron pipe. Informant went to village and met his brother respondent No.3. Informant accompanied by Govind and Sachin proceeded to Police Station. While they were at Baliraj Petrol Pump, Pangri, applicants arrived and on the reason of attempt of informant to lodge report against them, applicant No.1 assaulted informant by iron pipe. Bhausahab Baglane, Dhananjay and unknown person fetched informant towards dark place and assaulted him. Ashok and Aditya had sword and iron rod. Ashok assaulted informant by iron rod on his head. Dhananjay assaulted informant by sword on his head and attempt was made to kill him. After hearing the voice of siren applicants ran away. Thereafter the informant was taken to Civil Hospital, Beed for medical treatment. From Civil Hospital, Beed informant was shifted to Life Multispeciality Hospital and Trauma Center, Aurangabad for further medical treatment. Informant thereafter lodged First Information Report against the applicants.

3 It appears that the matter has been investigated but the charge sheet has not been yet filed. However, thereafter it appears that a compromise has taken place between informant, his brother and the accused persons. Hence, the present application has been filed for quashing the FIR.

4 Heard both the sides and perused the documents. Informant, his brother and applicants have filed terms of compromise, which is marked as Exh."B" stating that applicants and respondent Nos.2 and 3 are the relatives. Differences between them are amicably settled and they have no ill will or grudge against each other. It is stated that loving and affectionate relations between applicants and respondent Nos.2 and 3 are restored in view of settlement. Not only between them, but visiting terms amongst their family members are also restored. It is also stated that they will maintain cordial relations with each other and also will not indulge in any criminal activities against each other. Therefore, respondent Nos.2 and 3 do not want to proceed with the criminal proceedings initiated against applicants.

5 It is to be noted that as per the Injury Certificate issued by Medical Officer, District Hospital, Beed there were three injuries on the person of informant; two were simple injuries and one is grievous injury. No doubt, such offences are required to be seriously viewed, however, at the same time, it is also required to be noted that applicants and respondent Nos.2 & 3 are relatives of each other. They have settled the matter amicably.

6 The Hon'ble Apex Court in **Gian Singh vs. State of Punjab and another [(2012) 10 SCC 303]** has laid down the following ratio -

“51 Section 320 of the Code articulates public policy with regard to the compounding of offences. It catalogues the offences punishable under IPC which may be compounded by the parties without permission of the Court and the composition of certain offences with the permission of the court. The offences punishable under the special statutes are not covered by Section 320. When an offence is compoundable under Section 320, abatement of such offence or an attempt to commit such offence or where the accused is liable under Section 34 or 149 of the IPC can also be compounded in the same manner. A person who is under 18 years of age or is an idiot or a lunatic is not competent to contract compounding of offence but the same can be done on his behalf with the permission of the court. If a person is otherwise competent to compound an offence is dead, his legal representatives may also compound the offence with the permission of the court. Where the accused has been committed for trial or he has been convicted and the appeal is pending, composition can only be done with the leave of the court to which he has been committed or with the leave of the appeal court, as the case may be. The revisional court is also competent to allow any person to compound any offence who is competent to compound. The consequence of the composition of an offence is acquittal of the accused. Sub-section (9) of Section 320 mandates that no offence shall be compounded except as provided by this Section. Obviously, in view thereof the composition of an offence has to be in accord with Section 320 and in no other manner.

“52 The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable under Section

320 of the Code.

53 Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, nothing in this Code which means that the provision is an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

54 In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

55 In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of

justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim *quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest*. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be supplied by necessary intendment. Ex debito be supplied *justitiae* by necessary inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.

56 It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

57 Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand,

the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

58 Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of

the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

Further, after referring to various other decisions it has been held that,

“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 victims 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.”

Therefore, taking into consideration the above ratio, we find that

this is a fit case where the inherent powers of this Court should be exercised, in order to secure the ends of justice.

7 Thus, when the parties have compromised the matter and now in the terms of compromise respondent Nos.2 and 3 are coming with a case that they have settled the matter amicably, definitely, possibility of their turning hostile at the time of evidence cannot be ruled out. When they want to keep harmony in the family, it is a welcoming step and, therefore, we feel it necessary to exercise our inherent powers under Section 482 of the Code of Criminal Procedure. However, at the same time, when the entire machinery has been misused by the respondent No.2 and now on some terms when the applicants have approached respondent Nos.2 and 3, they have compromised the matter. Under such circumstance, we intend to impose some cost and conditions on the parties. Hence, following order.

ORDER

1 The application is hereby allowed.

2 The First Information Report vide Crime No.191/2022 dated 20.06.2022 registered with Police Station, Beed (Rural), Dist. Beed, for the offence punishable under Sections 307, 324, 504, 506 read with Section 34 of the Indian Penal Code, 1860 and under Section 4/25 of the Arms Act,

1959 is hereby quashed and set aside.

3 Applicant Nos.1) **Dhananjay Arun Jagtap**, 2) **Bhausahab Vishnu Baglane**, 3) **Ashok Ramdas Rahade**, 4) **Aditya Sunil Khanpit** and respondent Nos.2) **Mahadeo Shankarrao Talekar** and 2) **Govind Kakasaheb Talekar** shall file an undertaking before this Court on or before 15.12.2022 that they would deposit amount of Rs.5,000/- (Rupees Five Thousand only) each in the High Court Legal Services Sub-Committee, Aurangabad, within a period of six weeks from today.

4 The applicants and respondent Nos.2 and 3 should also state in the undertaking that they will maintain good relations with each other and they would participate in peace programme undertaken by Police Station, Beed (Rural), Dist. Beed, for a period of two years.

5 The Police Inspector should take note of this direction and call these persons in peace keeping programmes undertaken within the jurisdiction of the Police Station and issue certificate regarding participation of the applicants and respondent Nos.2 and 3, every month.

(**Rajesh S. Patil, J.)**

(**Smt. Vibha Kankanwadi, J.)**