

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

915 CRIMINAL WRIT PETITION NO.1356 OF 2021

ANURAG PRAKASH JADHAV AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Petitioners : Mr. Deshmukh Anagha A.
APP for Respondents : Mr. S S Dande
Advocate for Respondent 2 : Miss Jain Madhuri B.

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CORAM : V.K. JADHAV & SANDIPKUMAR C. MORE, JJ.
Dated: January 14, 2022

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PER COURT :-

1. Leave to add prayer clause 'B-1' of quashing of the proceedings.
2. Heard finally with consent at admission stage.
3. The petitioners/original accused are seeking quashing of the FIR bearing crime no.I-234 of 2021 registered with Pundlik Nagar Police Station, Aurangabad, District Aurangabad for the offence punishable under sections 498-A, 323, 377, 34 of the Indian Penal Code on the ground that the parties have arrived at amicable settlement. The petitioners are also seeking quashing of the Criminal Proceedings vide RCC

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No.2430 of 2021 pending before the Judicial Magistrate, First Class, Aurangabad, on the ground that the parties have arrived at amicable settlement.

4. Learned counsel for the petitioners and learned counsel for respondent no.2/informant submit that due to intervention of the common elderly people and respectable relative of both the parties, petitioner no.1 and respondent no.2-wife settled their dispute amicably. Even, they have jointly filed marriage petition no.F-230 of 2021 under section 13[B] of the Hindu Marriage Act seeking divorce by mutual consent. Further, as agreed between the parties, petitioner no.1-husband has deposited an amount of Rs.5,00,000/- (Rs. Five Lakh) before the Family Court, at Aurangabad towards the permanent alimony of respondent no.2 and, the same is agreed to be paid to respondent no.1 after the decree of the dissolution of the marriage by mutual consent is passed by the Court.

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5. Learned counsel for respondent no.2 submits that respondent no.2 has filed affidavit-in-reply to that effect. Respondent no.2 do not wish to make any allegations and she is not interested in pursuing the present matter.

6. We have also heard the learned APP for respondent no.1-State.

7. In a 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 the case of ***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.

8. In the instant case, parties have arrived at amicable settlement due to intervention of the relatives and elderly people from the Society. Furthermore, they have also filed the petition before the Family Court for divorce by mutual consent and care has also been taken to make arrangement for certain amount towards permanent alimony of respondent no.2. It thus appears that the parties have arrived at amicable settlement, voluntarily.

9. In view of the above discussion and in terms of the ratio laid down by the Supreme Court in the case of Gian Singh (supra), we proceed to pass the following order.

O R D E R

- i. Criminal Writ Petition is hereby allowed in terms of prayer clause '**B**' and '**B-I**'.
- ii. Criminal Criminal Writ Petition accordingly disposed off.

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

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