

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

52 CRIMINAL APPLICATION NO. 2871 OF 2021

UNION QUALITY PLASTIC LTD.,
THROUGH RAJENDRA BAJRANG SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. T.W. Pathan, Advocate for the applicant.
Mr. S.D. Ghayal, A.P.P. for respondent No.1.
Mr. A.P. Bhandari, Advocate for respondent No. 2.

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

DATE : 08-02-2022.

ORDER :

1. Heard finally with consent at the admission stage.
2. The applicant - accused is seeking quashing of F.I.R. in Crime No. 666/2017 registered with Shrigonda Police Station, Taluka Shrigonda, District Ahmednagar for the offence under Section 420 of the Indian Penal Code on the ground that the parties have arrived at amicable settlement.
3. Brief facts giving rise to the registration of F.I.R. are that the respondent No. 2 - informant had purchased 5000 sq.mtr fabric coated plastic paper for an amount of Rs.3,26,332/- from the applicant for Farm Pond. However, the

rain water could not be accumulated in the said Farm Pond even after it is covered by the said plastic paper due to extensive leakage. Similarly, the cousin brothers of the husband of respondent No. 2 namely Pawan Ashok Erande and Prashant Ashok Erande had also purchased the said fabric coated plastic paper of 3364 sq. mtrs. from the applicant company for an amount of Rs. 3,24,000/-. However, result was also the same. Consequently the complaint came to be lodged against the applicant Company for having committed offence of cheating.

4. Learned Counsel for the applicant and learned Counsel for respondent No. 2 submit that the parties have arrived at amicable settlement and the applicant Company has agreed to repay the entire amount of consideration paid by respondent No. 2 and also by the cousin brothers of her husband as referred above. Learned Counsel for respondent No.2 submits that the applicant - accused has paid the entire amount of consideration to respondent No. 2 so also to the cousin brothers of the husband of respondent No. 2 namely Pawan Ashok Erande and Prashant Ashok Erande. Respondent No.2 has also filed consent affidavit to that effect alongwith the said cousin brothers of her husband namely Pawan Ashok Erande and Prashant Ashok Erande.

5. Learned A.P.P. submits that as per the report submitted by Investigating Officer, there are no antecedents. Learned A.P.P. however submitted that this Court (Coram : S.S. Shinde and Mangesh S. Patil, JJ.) by an order dated 14.11.2017 in Criminal Application No. 6191 of 2017 has rejected the application filed by the present applicant - accused seeking quashing of F.I.R. Learned Counsel appearing for the applicants, however, submits that the said order came to be passed on merits and at present the parties have arrived at amicable settlement and accordingly the applicant Company is seeking quashing of F.I.R. on the basis of settlement arrived at between them.

6. 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 quoted para 21 of the judgment of the five-Judge Bench of the Punjab and Haryana High Court delivered in *Kulwinder Singh v. State of Punjab (2007) 4 CTC 769*. The five-Judge Bench of the Punjab and Haryana High Court, in para 21 of the judgment, has framed the guidelines for quashing of the criminal proceeding on the ground of settlement. Para 21 of the said case of *Kulwinder Singh* is reproduced by the Supreme Court in para 48 of the judgment in *Gian Singh*. Clause 21(c) which is relevant for the present

discussion reads as under :

“21. (c) Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim”.

7. In para No.61 of the case ***Gian Singh*** (supra), the Hon'ble Supreme Court 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.”

8. In the instant case the allegations made in the complaint are predominantly of civil nature and this is particular matter between the applicant Company and respondent No. 2 and cousin brothers of her husband namely Pawan Ashok Erande and Prashant Ashok Erande. There are complaints about the supply of defective fabric coating plastic paper used for Farm Pond. Since the matter has been amicably settled between the parties and in view of the instructions received by learned A.P.P. from the Investigating Officer that there are no antecedents so far as the applicant

Company is concerned and in view of the ratio laid down by the Supreme Court in the above-cited case, we are inclined to quash the F.I.R. on the basis of settlement. The parties have arrived at amicable settlement voluntarily. Respondent No.2 and the cousin brothers of her husband have received entire amount of consideration. Hence, the following order.

ORDER

- i) Criminal Application is hereby allowed in terms of prayer clause "B".
- ii) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V.K. JADHAV, J.)

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