

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

CRIMINAL APPLICATION NO. 3212 OF 2021

Akash @ Vicky s/o Ramesh Hadule,
age: 24 years, Occ: Student,
R/o R-27, Mhada 149, Pratapgad
Nagar, Near Baliram Patil
High School, Cidco, Aurangabad.

Applicant

Versus

01 The State of Maharashtra

02 Vrushali d/o Baliram Kharche,
age: 23 years, Occ: Student,
R/o Flat No.16, Augasti Housing
Society, N-9, Cidco, Aurangabad.

Respondents

Mr. Abhishek Kulkarni, advocate for the applicant
Mr. S. S. Dande, APP for Respondent No.1.
Mr. G. L. Tade, advocate for Respondent No.2.

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

DATE : 02nd May, 2022.

PC :

1 By consent of learned Counsel for respective parties,
heard finally at the stage of admission itself.

2 The applicant-accused is seeking quashing of the First
Information Report bearing Crime No. 0717 of 2021, registered with
Cidco Police Station, Aurangabad, for the offences punishable

under Section 354-D of the Indian Penal Code and under Sections 66(c) and 6(d) of the Information Technology Act and also consequential proceedings bearing RCC No. 251 of 2022, pending before the learned Judicial Magistrate, First Class, Aurangabad, on the ground that the parties have arrived at an amicable settlement.

3 Learned Counsel for the applicant and learned Counsel appearing for Respondent No.2 submit that the parties have arrived at an amicable settlement voluntarily. Learned Counsel appearing for the parties submit that the applicant and Respondent No.2 are highly educated and both are unmarried. The applicant is B.Sc. & M.B.A., I.T. and Respondent No.2 is also a graduate. They both have future career prospects.

4 Thus, considering the future prospects of both i.e. applicant and Respondent No.2 and since elderly members of their respective families are searching partners for marriage, they have arrived at an amicable settlement. Consequently, Respondent No.2 is not willing to prosecute the complaint and she has no grievance if the crime registered against the applicant and consequential criminal proceedings arising out of the said crime are quashed.

5 Learned Counsel for Respondent No.2 submits that the applicant and Respondent No.2 have also filed a joint compromise pursis.

6 We have also heard learned A. P. P. for Respondent No.1. Learned A. P. P., on the basis of instructions in writing received from the Investigating Officer, submits that there are no antecedents of the applicant.

7 We have carefully gone through the contents of the complaint and joint compromise pursis. It has been alleged in the complaint that on 28.08.2021, Respondent No.2-informant was informed by her friend that she has received a friend request from her Instagram account wherein her photograph is also uploaded. When Respondent No.2 checked the said account, she noticed that said account is not opened by her and somebody has played mischief with her by opening the account in her name and by uploading her photograph. Thus, Respondent No.2 has approached the Cyber Cell and lodged complaint. It has been revealed during the course of the investigation that present applicant has prepared the said profile in the name of Respondent No.2 and also uploaded her photograph. It has also been alleged

in the complaint that present applicant chased her on social media.

8 The parties are well educated and both are unmarried. Thus, considering their future careers so also their marriage prospects, they have approached this Court for quashing of the First Information Report and consequential criminal proceedings. It appears that the dispute is predominantly of a private nature. Further, there are no antecedents of the applicant. Applicant – Akash @ Vicky s/o Ramesh Hadule is present in-person before us and assured this Court that in future, he will not carry out similar activities either in case of Respondent No.2 or any other girl. Respondent No.2 Ms. Vrushali d/o Baliram Kharche is also present before us in-person and she has no objection if the First Information Report and consequential criminal proceedings are quashed in terms of the settlement arrived at between them.

9 The Hon'ble Supreme Court, in para No.61 of the judgment in the case of ***Gian Singh vs. State of Punjab and others (supra)***, 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; (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 pre-dominatingly 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.”

10 Thus, considering the entire aspects of the matter and in terms of the ratio laid down by the Hon'ble Supreme Court in the aforce-cited case, we proceed to pass the following order:

(i) Criminal Application No. 3212 of 2021 is allowed in terms of prayer clause "B".

11 Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE)
JUDGE

(V.K.JADHAV)
JUDGE

adb