

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

937 CRIMINAL APPLICATION NO.3225 OF 2021

BHAVIK NITIN RANIGA
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Bhosle Abhaysinh K.
APP for Respondent no.1-State: Mr. S. S. Dande
Advocate for Respondent no.2 : Mr. S. G. Shinde

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

DATED : 13/04/2022.

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P. C. :

1. Leave to insert the case number and the court before whom the case is pending in prayer clause "C".
2. Heard finally with consent of the parties at admission stage.
3. Applicant, is seeking quashing of FIR bearing No. 386 of 2022, registered with Pundliknagar Police Station, Aurangabad, for the offence punishable under Sections 67 and 67-A of the Information Technology Act and also the proceeding arises out of the same crime bearing RCC No. 1916 of 2021, pending before IVth Judicial Magistrate (First Class), Aurangabad on the ground that the parties have arrived at amicable settlement.

4. The applicant had allegedly transmitted the obscene material in the electronic form. The applicant has allegedly forwarded the obscene photographs of the wife of the informant from Facebook account of his father to the Facebook account of the informant.

5. Learned counsel for the applicant and the learned counsel appearing for respondent no.2 submit that the parties have arrived at amicable settlement due to intervention of elderly members of the family, collegemate and the others. The learned counsel submits that the parties buried their hatchet and have decided to live peacefully in future. Learned counsel for respondent no.2 submits that the respondent no.2 informant has also filed his consent affidavit so also the victim (wife of the respondent no.2 informant) has also filed her consent affidavit. They have decided to keep harmony between each other to enable them to live with peace and love. Now they have no grudge against each other. Learned counsel for respondent no.2 and the victim submits that respondent no.2 and his wife are not interested in prosecuting the complaint.

6. We have also heard the learned APP for respondent no.1-State. Learned APP, on instructions in writing from the investigating officer, submits that there are no antecedents.

7. In the case of ***Gian Singh vs. State of Punjab and others***, reported in ***(2012) 10 SCC 303***, in para 61, 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, in view of the compromise between the parties, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to extreme difficulty. Further, the compromise has brought to an end the dispute between the parties permanently. However, after going through the allegations made in the complaint and the manner in which the applicant has allegedly forwarded certain obscene posts by using the Facebook account of his own father, we are inclined to saddle costs on the applicant. Otherwise we are satisfied that the parties have arrived at compromise voluntarily.

9. In view of the above and in terms of the ratio laid down in the above cited case, we proceed to pass following order.

ORDER

- I) Criminal application is allowed in terms of prayer clause "C" subject to costs of Rs.25,000/- (Rs. Twenty five thousand) to be deposited by the applicant before this court within a week and on depositing the same, the said amount of costs shall be transferred

to the Library, Advocates Association of High
Court Bombay, Bench at Aurangabad

II) Criminal application is disposed of
accordingly.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-