

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

902 CRIMINAL WRIT PETITION NO.1813 OF 2018

SYED MUZAFAR S/O. SYED YOUSUF AND OTHERS  
VERSUS  
THE STATE OF MAHARASHTRA AND ANR

.....  
Advocate for Petitioners : Mr. Zia Ul Mustafa And Quadri Taher Ali  
APP for Respondent-State: Mrs. P.V. Diggikar  
Advocate for Respondent No.2 : Mr. Shaikh Afreen R  
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**CORAM : V. K. JADHAV AND  
SANDIPKUMAR. C. MORE, JJ.  
DATED : 11<sup>th</sup> FEBRUARY, 2022**

**PER COURT:-**

1. Heard.
2. The petitioners/original accused in connection with F.I.R. No. I-290 of 2017 registered with Cantonment Police Station, Aurangabad are seeking quashing of F.I.R. so also the charge-sheet No. I-31 of 2018 at present registered as R.C.C. No. 977 of 2018 pending before the J.M.F.C. Aurangabad on the ground that the parties have arrived at amicable settlement.
3. Learned counsel for the petitioners and learned counsel appearing for respondent No.2 submit that the parties have arrived at amicable settlement. Respondent No.2 wife has taken Khula from petitioner No.1-husband and as such, she is no longer remained his wife. Learned counsel for respondent No.2 submits that the complaint came to be filed due to certain misunderstanding.

Respondent No.2 at present has no grievance against the petitioners. She has no objection for quashing of F.I.R. and the proceedings as referred to above.

4. We have also heard learned A.P.P. for the respondent-State.

5. We have carefully gone through the allegations made in the complaint, perused the charge-sheet so also the affidavit of the original complainant/respondent No.2 and also the copy of Khulanama with translation thereof. It appears that the parties have arrived at amicable settlement and, accordingly, respondent No.2 wife has obtained Khula. On perusal of the contents of translated Khulanama, it appears that petitioner No.1-husband has given an amount of Rs.1,00,000/- (Rupees one lac) to respondent No.2 for taking care of daughter and as the maintenance of Iddat. Further the custody of the daughter was given to respondent No.2 with certain visitation rights to petitioner No.1-husband.

6. In the case of ***Gian Singh vs. State of Punjab and others***, reported in **(2012) 10 SCC 303**, the Supreme Court by referring the view expressed by the Five Judges of Punjab and Haryana High Court in the case of **Kulwinder Singh Vs. State of Punjab (2007) 4 CTC 769** and also by referring the guidelines framed by the said Bench in para 21 further reproduced the said guidelines in para 48 of the judgment. So far as the facts of the present case are concerned the settlement arrived at between the parties. Guidelines No.21 (a)

which is relevant is reproduced herein below:-

“21.

(a) Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.”

7. Thus, the 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-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."*

8. We have satisfied that the parties have arrived at amicable settlement, voluntarily. Respondent No.2 has obtained Khula and the copy of Khulanama and translation thereof are also produced before us. It further appears that care has also been taken to give

certain amount to respondent No.2 for taking care of daughter, whose custody is given to respondent No.2 with visitation rights to petitioner No.1-husband. It appears that respondent No.2 has no grievance at all against the petitioners and she has no objection if the proceedings are quashed.

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

**ORDER**

- I. Criminal writ petition is allowed in terms of prayer clause "B".
- II. Criminal writ petition is disposed of accordingly.

**(SANDIPKUMAR. C. MORE, J.)**

**(V. K. JADHAV, J.)**

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