

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.5010 OF 2021**

Kaustav Bharadwas

... Petitioner

V/s.

The State of Maharashtra and anr.

... Respondents

Ms Sushmita Sherigar i/b Mr. Naveen Sharma for the Petitioner.

Ms M.H. Mhatre, APP for the Respondent No.1 – State.

Mr. Advait Joshi i/b Regulus Advocates and Consultant for
Respondent No.2.

**CORAM : NITIN JAMDAR &
N.R. BORKAR, JJ.**

DATE : 17 AUGUST 2022.

P.C.

. The present petition under Article 226 of the Constitution of India read with Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.641 of 2019 (hereinafter referred to as “FIR”, for short) dated 6 July 2019 registered at Lonikand Police Station, Pune against the Petitioner for the offences punishable under Sections 354-A of the Indian Penal Code and Section 67 of the Information Technology Act, 2000.

2. The aforesaid crime came to be registered, at the instance of Respondent No.2. It is alleged that, she and the Petitioner, who is

her husband, are residing separately due to matrimonial dispute and have filed the petition for divorce by mutual consent. It is alleged that on 4 April 2019, 3 May 2019, 11 June 2019, 12 June 2019 and 18 June 2019, the Petitioner had sent her obscene messages on her mobile phone and thereby outraged her modesty.

3. The learned Counsel for the Petitioner and the learned Counsel for the Respondent No.2 jointly submit that the parties have amicably settled the dispute. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. The learned Counsel for the parties submit that the present case is squarely covered by the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh and ors vs. State of Punjab and anr*¹.

4. The Respondent No.2 has filed the consent affidavit dated 2 May 2022. The Respondent No.2 has stated that she has no objection if the FIR in question is quashed in view of the settlement arrived at between the parties.

5. The Hon'ble Supreme Court in *Narinder Singh and ors vs. State of Punjab and another*² has held :

“29. In view of the aforesaid discussion, we sum up and

1 (2014) 6 SCC 466

2 (2014) 6 SCC 466

lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

- (i) ends of justice, or*
- (ii) to prevent abuse of the process of any court.*

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the

victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.”

6. We have examined the facts of the present case in the light of principles laid down by the Hon'ble Supreme Court in the case of *Narinder Singh (supra)*. The main reason for filing of the FIR appears to be matrimonial dispute. The allegations are totally of personal in nature. In view of the settlement between the parties, Respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction is remote and bleak. Considering these facts and circumstances, the writ petition deserves to be allowed. Writ Petition is accordingly allowed. Consequently, the FIR No.641 of 2019 dated 6 July 2019 registered at Lonikand Police Station, Pune against the Petitioner for the offences punishable under Sections 354-A of the IPC and Section 67 of the Information Technology Act, 2000 is quashed and set aside.

7. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN JAMDAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
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2022.08.24
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