

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2604 OF 2023**

Narendra Bijalwan
Versus
1. State of Maharashtra
2. Smt. Megha A. Udar

...Petitioner

...Respondents

Ms Dimple Shah a/w. Mr. Siddhant Vakil and Mr. Varun Shah for the Petitioners.

Ms S.S. Kaushik, APP for the Respondent/State.

Mr. Angel Carneiro a/w. Mr. Mangesh Bhole i/b Mulla & Mulla & CBC for the Respondent No.2.

**CORAM : NITIN W. SAMBRE &
N. R. BORKAR, JJ.**

DATE : 6 NOVEMBER, 2023.

PC:-

1. The present petition under Article 226 of the Constitution of India is filed to quash the First Information Report No.369 of 2023 dated 6 June 2022 registered at Chaturshrungi Police Station, Pune for the offences punishable under Sections 120-B, 193, 199, 200, 420, 463, 464, 465, 466, 468, 469, 470 and 471 of the Indian Penal Code.

2. The aforesaid crime came to be registered against the petitioner on the basis of report lodged by respondent No.2. The allegations against the petitioner are *inter alia* of cheating and forgery.

3. The quashing of FIR is sought on the ground that there has

been an amicable settlement between the parties and respondent No.2 is no longer desirous of prosecuting the case in question.

4. The learned counsel for the petitioner and the learned counsel for the respondent No.2 jointly submit that the dispute between the parties was in relation to dishnour/misuse of cheques which now they have amicably settled. It is submitted that no purpose would be served by keeping the prosecution alive, in view of the settlement arrived at between the parties. It is submitted 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.

5. The respondent No.2, who is identified by her Advocate Mr. Agel Carneiro, is personally present in the Court. She confirms about the settlement arrived at with the petitioner, and the contents of the consent affidavit dated 30 October 2023 filed by her, wherein she has stated that she has no objection if the criminal case in question against the petitioner is quashed.

6. 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 lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and

1 (2014) 6 SCC 466

2 (2014) 6 SCC 466

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 to 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.”

7. The genesis of the dispute between the parties appears to be dishonour/misuse of cheques. The allegations are of personal in nature. In view of the settlement between the parties, the respondent No.2 is not going to support the prosecution case and therefore, the possibility of conviction is remote and bleak. Considering overall facts and circumstances, in our view, the petition deserves to be allowed. Hence, the Petition is allowed in terms of prayer clause (a), subject to payment of cost of Rs.1,00,000/- by the petitioner and respondent No.2 to the **“Association of Parents of Mentally Retarded Children, Account No. 00000010884930648, Bank Name : State Bank of India, IFSC Code: SBIN0009056”** within ten weeks from today and the receipt of payment of cost shall be produced with the Registry, failing which the order of quashing the criminal proceedings shall stand recalled.

8. Writ Petition is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)