

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1179 OF 2023**

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|----|--------------------------|--|----------------|
| 1. | Suryakant B. Mainak | | |
| 2. | Swati S. Mainak | | |
| 3. | Amey S. Mainak | | ...Applicants |
| | Versus | | |
| 1. | The State of Maharashtra | | |
| 2. | Bindra S. Khambhayata | | ...Respondents |

Mr. Amol Joshi for the Applicants.
Mr. S.V. Gavand, APP for the Respondent/State.
Mr. Sufiyan I. Shaikh for Respondent No.2.

CORAM	:	NITIN W. SAMBRE & N. R. BORKAR, JJ.
DATE	:	07 NOVEMBER, 2023.

PC:-

1. The present application under Section 482 of Code of Criminal Procedure, 1973 is filed to quash the First Information Report No.460 of 2023 dated 13 July 2023 registered at Kandivali (W) Police Station, Mumbai for the offences punishable under Sections 509, 504, 506 (2) read with 34 of the Indian Penal Code.
2. The aforesaid crime came to be registered against the applicants at the instance of respondent No.2/complainant. The allegations against the applicants *inter alia* are of insulting the modesty of respondent No.2.
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 applicants and the learned counsel for the respondent No.2 jointly submit that the genesis of the incident is civil dispute which the parties have now settled. It is submitted that in view of the settlement arrived at between the parties no purpose would be served by keeping the prosecution alive. 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. Sufiyan I. Shaikh, is personally present in the Court. She confirms about the settlement arrived at with the applicants and the contents of the consent affidavit dated 5 September 2023 filed by her, wherein she has stated that she has received cheques towards disputed amount. Respondent No.2 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 (supra)* 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 exercising its power under Section 482 of the Code

1 (2014) 6 SCC 466

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 incident appears to be the outcome of civil dispute. The allegations are personal in nature. In view of the settlement, the respondent No.2 is not going to support the prosecution case and therefore, possibility of conviction of applicant is remote and bleak. Considering the overall facts and circumstances, in our view, the Application deserves to be allowed. The Application is thus allowed in terms of prayer clause (a), subject to payment of costs of Rs.25,000/- (Rupees Ten Thousand) by each of the applicant to the **"Children AID Society bearing Account No. 02370100005612, UCO Bank, IFSC Code: UCBA0000237"** 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. Criminal Application is disposed of.

(N.R. BORKAR, J.)

(NITIN W. SAMBRE, J.)