

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

CRIMINAL REVISION APPLICATION NO. 332 OF 2001

Lahu S/o Dashrath Nikat

Age : 32 Yrs., Occ. Agril.,

R/o : Ambi-Jalgaon, Tq. :

Karjat, Dist.: Ahmednagar.

.... **APPLICANT/**

[ORIGINAL ACCUSED]

V E R S U S

1. The State of Maharashtra

2. Sow. Ayodhya W/o Lahu Nikat

Age : 25 Yrs., Occ. Household,

R/o : Ambi-Jalgaon, Tq. :

Karjat, Dist.: Ahmednagar.

.... **RESPONDENTS/**

[R-2 : ORIGINAL COMPLAINANT]

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Mr. V.S.Bedre, Advocate for the Applicant.

Mr. V.H.Dighe, A.P.P. for R-1 State.

Mr. P.R.Katneshwarkar, Advocate for R-2.

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WITH

CRIMINAL WRIT PETITION NO. 513 OF 2001

Sow. Ayodhya W/o Lahu Nikat

Age : 25 Yrs., Occ. Household,

R/o : Ambi-Jalgaon, Tq. :
Karjat,Dist.: Ahmednagar.

**.... PETITIONER/
[ORIGINAL COMPLAINANT]**

V E R S U S

1. Lahu S/o Dashrath Nikat
Age : 32 Yrs., Occ. Agril.,
R/o : Ambi-Jalgaon, Tq. :
Karjat,Dist.: Ahmednagar.

.... RESPONDENTS/

2. The State of Maharashtra

[R-1 : ORIGINAL ACCUSED]

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Mr. P.R.Katneshwarkar, Advocate
for the Petitioner.

Mr. V.S.Bedre, Advocate for R-1.

Mr. V.H.Dighe, A.P.P. for R-2 State.

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CORAM : V.M.DESHPANDE, J.

DATE OF JUDGMENT : 12th JANUARY, 2015

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ORAL JUDGMENT :

1. Both these matters can be commonly disposed of
by this common Judgment.

2. The applicant in Criminal Revision Application

No. 332 of 2001 Lahu Dashrath Nikat is husband of the petitioner Sow. Ayodhya Lahu Nikat in Criminal Writ Petition No. 513 of 2001.

3. A prosecution was launched against Lahu Dashrath Nikat for the offence punishable u/s 498-A of the Indian Penal Code. Lahu Nikat was convicted on 16/06/1999 for the said offence by the learned J.M.F.C., Karjat, District Ahmednagar in R.T.C. No. 15/1998.

4. Feeling aggrieved thereby, Criminal Appeal was carried by the Applicant Lahu Dashrath Nikat before the learned Sessions Judge, Ahmednagar. The said Appeal was registered as Criminal Appeal No. 36/1999. The learned Additional Sessions Judge, Ahmednagar on 21/09/2001 was pleased to dismiss the said Appeal and confirmed the Judgment and order of conviction. Against the said concurrent findings, Criminal Revision Application No. 332 of 2001 was filed by Lahu Nikat. The Revision is already ' **admitted** ' by this Court on 26/12/2001 and Lahu Nikat is already released on bail in the year 2001.

5. The wife has filed Criminal Writ Petition, by which it is pointed out that settlement took place between husband and wife and since 2000, she is happily leading her married life with Lahu Nikat, she prayed that the conviction against her husband Lahu Nikat be set aside. The Writ Petition of the wife is also ' **admitted** ' in the year 2001.

6. In view of the decision of the Hon'ble Apex Court in the case of **B.S.Joshi and others Vs. State of Haryana and another, AIR 2003 Supreme Court 1396 (1)**, the Apex Court has already taken a view that in the matrimonial matter, when the husband and wife have settled their dispute amicably, the High Court can exercise its inherent power.

7. Presently, this Court is entrusted with the Applications u/s 482 of the Code of Criminal Procedure.

8. Further, I have gone through the impugned Judgment and also the record. If the case of the prosecution is evaluated, it is clear that first 7-8 years there was no whisper of the complaint on the part of the wife against the husband. Not only that, the husband has already transferred

5 Acres irrigated land in favour of the wife. If that be so, the allegation made in the F.I.R. that for sum of ₹ 10,000/- [Rupees Ten Thousand only], she was subjected to cruelty, is unable to digest. On merit also, the prosecution is utterly failed to prove the guilt of the present applicant Lahu Dashrath Nikat beyond reasonable doubt. The cumulative effect of the above discussion is that the Criminal Revision Application has to be allowed. Hence, the Court passes the following Order :

- (1) Criminal Revision Application No. 332 of 2001 is allowed.
- (2) The Judgment and order dated 16/06/1999 passed by the learned J.M.F.C., Karjat, District Ahmednagar in R.T.C. No. 15/1998 convicting the applicant Lahu Dashrath Nikat for the offence punishable u/s 498-A of the Indian Penal Code together with the Judgment and order dated 21/09/2001 passed by the learned Additional Sessions Judge, Ahmednagar in Criminal Appeal No. 36/1999 are hereby quashed and set aside.

- (3) The applicant Lahu Dashrath Nikat is acquitted from the said charge.
- (4) Since Criminal Revision Application No. 332 of 2001 is allowed, no formal orders are necessary in Criminal Writ Petition No. 513 of 2001 and as such it is disposed of.

[V.M.DESHPANDE, J.]

KNP/Cr. Revn.Apln. 332....2001 - [J]