

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3439 OF 2015

- 1) Vishnu s/o Mahadeo Aghav,
Age-28 years, Occu:Agri.,
R/o-Warni, Tq-Shirur (kasar),
Dist-Beed,
- 2) Bhagwan s/o Mahadeo Aghav,
Age-29 years, Occu:Agri.,
R/o-As Above,
- 3) Rakhamabai w/o Mahadeo Aghav,
Age-53 years, Occu:Household
And Agriculture,
R/o-As Above.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through Police Inspector,
Police Station, Shirur Kasar,
Tq-Shirur Kasar, Dist-Beed,
- 2) Meenabai w/o Vishnu Aghav,
Age-Major, Occu:Agri.,
R/o-Warni, Tq-Shirur Kasar,
Dist-Beed.

...RESPONDENTS

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Mr.S.S. Thombre Advocate for Applicants.
Mr.B.L. Dhus, A.P.P. for Respondent No.1.
Mr.S,V, Solanke Advocate for Respondent No.2.

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**CORAM: A.B. CHAUDHARI AND
 INDIRA K. JAIN, JJ.**

DATE : 7TH OCTOBER, 2015

ORAL ORDER :

1. Rule, made returnable forthwith. With the consent of the learned counsel for the rival parties, taken up for final hearing. The counsel for respective Respondents waive service of notice.

2. Leave to amend prayer clauses.

3. Indisputedly the trial Judge recorded the conviction against the Applicants for the offences punishable under Section 498-A read with 34 of the Indian Penal Code and sentenced them to undergo rigorous imprisonment for two years and pay fine of Rs.1000/- each and in default to suffer further simple imprisonment for two months. The parties made an attempt before the Sessions Court in the Appeal for compounding of the

offences for which they were convicted. But rightly the Sessions Court declined to do so for want of authority. Hence this Application has been made by the Applicants.

4. The counsel for the Applicants submitted that the Applicant No.1-husband - Vishnu s/o Mahadeo Aghav would file affidavit in the form of undertaking in this Court by tomorrow undertaking that he would treat Respondent No.2 - Meenabai w/o Vishnu Aghav properly and would not trouble her in future nor would drive her out of the house and that in case Respondent No.2 makes complaint, the Applicant No.1 would suffer the sentence as ordered by the trial Court.

5. We have interviewed Respondent No.2 Meenabai, her father Raosaheb and we find that Respondent No.2 Meenabai has gone to reside with her husband since a month and therefore she has resumed the matrimonial relations with her

husband. We think that there should not be any legal subterfuge in the way of the matrimonial life of Respondent No.2 and therefore we think that applying the ratio in the case of **Gian Singh vs. State of Punjab and another reported in (2012) 10 S.C.C. 303**, compounding of offences should be allowed in the interest of justice, so also quashing of the Judgment under which the Applicants were convicted. In the result, we make the following order:-

O R D E R

(I) Criminal Application No.3439 of 2015 is allowed.

(II) Rule is made absolute in terms of prayer clause (B) of the Application.

(III) Judgment and Order dated 10th May 2012 in R.C.C. No.12 of 2009 passed by the

Judicial Magistrate, First Class, Shirur

Kasar is quashed and set aside.

[INDIRA K. JAIN, J.]

asb/OCT15

[A.B. CHAUDHARI, J.]