

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

CRIMINAL APPLICATION NO. 5355 OF 2014

- 1] Gorakh s/o Machindra Ghadge,
age 28 years, occ. Labour,
R/o Aher Wadgaon, Tq. And Dist. Beed,
 - 2] Machindra s/o Jagannath Ghadge,
age 51 years, occ. And r/o as above,
 - 3] Surekha w/o Machindra Ghadge,
age 46 years, occ. And r/o as above,
 - 4] Jagannath s/o Dadarao Ghadge,
age 78 years, occ. And r/o as above,
 - 5] Ram s/o Dashrath Jadhav,
age 48 years, occ. Agriculture,
R/o Sakhre Borgaon,
Tq. And Dist. Beed
- ...Applicants

VERSUS

The State of Maharashtra

Through : Koushalya w/o Gorakh Ghadge,
age 24 years, occ. Housewife,
R/o Aher Wadgaon, Tq. & Dist. Beed
(cause title per orig.proceedings)

...Respondents

.....
Shri A.A.More, advocate for applicants
Shri S.A.Ambad, A.P.P. for respondent
.....

CORAM : V.M.DESHPANDE, J.

DATED : 16th January, 2015

ORAL JUDGMENT : -

1] Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties taken up for final hearing.

2] Heard A.A.More, learned counsel for the applicants and Shri S.A.Ambad, learned Additional Public Prosecutor for respondent/State.

3] Kousalya wife of Gorakh Ghatge is the complainant. She filed complaint in the court of Judicial Magistrate, First Class, 4th Court, Beed, for the offence punishable under Section 498-A of the Indian Penal Code, on whose complaint an offence was registered against the present applicants for the offence punishable under Section 498A of the Indian Penal Code and under Sections 3 and 4 of the Dowry Prohibition Act. The learned Magistrate in Regular Criminal Case No. 448 of 2008 convicted them for the offence punishable under Section 498A of the Indian Penal Code and directed them to suffer simple imprisonment for a period of one year.

4] Feeling aggrieved thereby, the present applicants preferred an appeal in the Court of Sessions Judge, Beed. The said appeal was registered as Criminal Appeal No. 46 of 2011.

During the pendency of the said criminal appeal, an application was moved stating that the first informant Kousalya has settled her dispute with her husband Gorakh Ghadge. She is residing with Gorakh for last three years and delivered a child also. The said application was accompanied with a Tadjod patra. However, the learned Sessions Judge on 25.6.2014 rejected the said compromise on the ground that the offence under Section 498-A of the Indian Penal Code is not compoundable, and therefore, directed to take appropriate recourse as available to the parties in law.

5] In that view of the matter, the present application under Section 482 of the Criminal Procedure Code is filed before this court.

6] Gorakh as well as Kousalya are present in this court. Shri A.A.More, learned counsel has identified them. On inquiry made with Kousalya by the court, she has accepted that she is residing with Gorakh.

7] In view of the law laid down by the Apex Court in the case of **B.S.Joshi vs State of Haryana** reported in **AIR 2003 SC 1386**, Hon'ble Apex Court has held that the powers of High Court under Section 482 of the Criminal Procedure Code are not limited by provisions of Section 302 of the Criminal

Procedure Code. The Apex Court ruled that it is the duty of court to encourage genuine settlements of matrimonial disputes. This court is satisfied regarding the fact that the parties have settled their dispute amicably. Not only that, the wife is residing happily for last three years with her husband. In that view of the matter, it is a fit case to exercise inherent powers.

8] Accordingly, Criminal Application is allowed. The charge sheet and proceedings filed on behalf of the first informant Kausalya Gorakh Ghadge are hereby quashed and set aside. Consequently, the judgment and order of conviction, passed by the learned Judicial Magistrate, 4th Court, Beed, in Regular Criminal Case No. 448 of 2008 is quashed and set aside. The appeal pending on the file of the learned Sessions Judge, Beed, bearing Criminal Appeal No. 46 of 2011 has become infructuous and is disposed of accordingly. Rule is made absolute.

[V.M.DESHPANDE, J.]

//Authenticated copy//

D.B.Mahajan,
Private Secretary to Hon'ble Judge.