

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE SIDE JURISDICTION  
CRIMINAL APPLICATION NO. 256 OF 2015

Ramesh Baburao Polake and another

.....Applicants

V/s.

The State of Maharashtra through  
Nagpada Police Station and another

....Respondents

Ms. Rohini Dandekar for Applicant  
Mr. V. B. Konde-Deshmukh APP for the State.

**CORAM : SMT. SADHANA S. JADHAV, J.**  
**DATED : SEPTEMBER 11, 2015.**

**PC :**

Heard.

- 2) Rule. Rule made returnable forthwith with the consent of parties.
- 3) The appellants herein are convicted for offence punishable under section 498 (A) r/w 34 of Indian Penal Code and sentenced to suffer rigorous imprisonment for the period of one year and fine of Rs. 3000/- in default to suffer simple imprisonment for three months by Metropolitan Magistrate. 25<sup>th</sup> Court, Mazgaon, Mumbai in C.C. No. 243/PW/2007 vide Judgment and Order dated 12/07/2012.

ism

- 4) Being aggrieved by the said Judgment and order, petitioners herein had filed Criminal Appeal No. 174 of 2012 before Sessions Court at Mumbai.
- 5) During the pendency of the appeal, complainant and appellants had resolved their disputes and had started residing together along with their minor daughter Dia. On 20/09/2014, complainant and the petitioners herein appeared before Appellate Court and had demonstrated before the Court that they have resolved their disputes and that they were residing together. It was also demonstrated that due to economic stringency, they would be enable to approach the higher court for seeking relief of quashing of proceedings since they have settled their disputes. Learned Special Judge had observed all these facts and had directed the appellants to approach the Legal Aid Committee of the High Court and seek relief under section 482 of Code of Criminal Procedure, 1973, since offence under section 498 (A) is non compoundable offence and the same can be compounded with the permission of the Court in the given circumstances. Hence, this application. Learned counsel Ms. Dandekar has been appointed through Legal Aid Committee.
- 6) Today, appellants and complainant are present before the Court along with their minor daughter Dia and have submitted the consent terms. Consent

terms are taken on record and marked as article 'X' for the purpose of identification. It is a joint pursis. They have started residing together since 2012. For the past 3 years they have been leading a happy married life along with their daughter and in view of this, the continuation of the appeal would be an abuse of process of law and hence, it would be fit case to grant permission to compound the offence.

7) In view of the Judgment of the Hon'ble Apex Court in the case of **B. S. Joshi and Ors V/s State of Haryana and another (2003 (4) SCC 675)**, this Court grants permission to the appellants and the complainant to compound the offence.

8) Learned counsel for the petitioner has put in best of efforts to espouse the cause of the appellants. Efforts taken by learned counsel appointed for the appellants deserve appreciation. Her professional are quantified to the tune of Rs. 3000/- to be paid to her within three months from today.

### **ORDER**

- (i) Application is allowed.
- (ii) Proceedings against present appellants in Criminal Appeal No.

174 of 2012 pending before Special Judge, court room no. 47 is hereby quashed and set aside.

(iii) Appellants stand acquitted of the offence punishable under section 498 (A) of Indian Penal Code.

(iv) Bail bonds of the appellants stand cancelled.

(v) Fine amount, if paid be refunded to the appellants.

(vi) Rule is made absolute in the above terms.

**(SMT. SADHANA S. JADHAV, J.)**

**CERTIFICATE**

Certified to be true and correct copy of the original signed order.