

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 931 OF 2014

Wajir Lalbhai Shaikh & Others. ... Applicants.

V/s.

State of Maharashtra & Anr. ... Respondents.

Mr. H. E. Palwe, Advocate for the Applicants.

Ms. V.S.Mhaispurkar, APP for the State.

Mr. V.K. Rathod, Advocate for Respondent No.2.

CORAM : M.L.TAHALIYANI, J.

DATE : 13 JANUARY, 2015

P.C. :

1 Heard the learned counsel for the parties.

2 This Criminal Application has been filed by the applicants- accused, who have been convicted by the Assistant Sessions Judge, Nashik, for the offence punishable under sections 498-A read with 34 of the IPC and sections 307 read with 34 of the IPC. The complainant, the victim in the said offence, was the wife of the applicant no.1 / accused-Wajir Lalbhai Shaikh. The incident in question had occurred in the year 2003. The marriage between applicant no.1 and the complainant- respondent no.2 - Shaheen was solemnized in the year 2002.

3 On the complaint made by respondent no.2- wife of applicant no.1, an offence was registered at Wani Police Station, Tal. Dindori, Dist. Nashik against the applicants. As already stated, all the applicants have been convicted by the trial Judge/ Assistant Sessions Judge. An appeal has been filed before the Additional Sessions Judge. During the pendency of the appeal, an application was made by the applicants and the respondent-complainant jointly, for disposal of the appeal as the dispute between the applicants and respondent no.2 had been amicably resolved. The learned appellate Judge rejected the application on the ground that there was no provision to pass an order of the nature requested for by the applicants and respondent no.2. No doubt there is no such provision in the Criminal Procedure Code. However, this court in exercise of powers under section 482 can pass suitable orders in view of the amicable settlement of the dispute between respondent no.2 and the applicants. The applicants and the respondent no.2 are present before the court. Respondent No.2 has submitted before the court that she is staying with the applicants since last three years and she has no grievance against them. The dispute between them has been resolved outside the court. She, therefore, requested that the conviction recorded against the applicants may be quashed.

4 In the ordinary course, it would not have been possible for this court to grant the prayer of this nature. However, considering the peculiar facts and circumstances of this case and particularly the fact that respondent no.2 is staying with the applicants and considering that they are living a peaceful life, I am inclined to allow the prayer and give relief to the parties under section 482 of the Cr.P.C.. In my opinion, the interest of justice will be served, if the conviction recorded by the Assistant Sessions Judge is quashed in exercise of powers under section 482 of the Cr.P.C..

5 Hence,I pass the following order :

- i. The conviction recorded by the Adhoc Assistant Sessions Judge, Nashik in Sessions Case No. 21 of 2004 against the applicants is hereby quashed.
- ii. It, therefore, follows that the appeal pending in the court of Additional Sessions Judge, Nashik will not survive.
- iii. Criminal Application stands disposed of in the above terms.

(JUDGE)