

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

CRIMINAL APPLICATION NO.3390 OF 2016

1. Kamaji s/o Nagorao Panchal,
Age 37 years, Occu. Nil
2. Nagorao s/o Madhavrao Panchal,
Age 48 years, Occu. Labour
3. Laxmibai w/o Nagorao Panchal,
Age 55 years, Occu. Household
4. Dnyanoba @ Dnyaneshwar
s/o Nagorao Panchal,
Age 31 years, Occu. Household
5. Meera w/o Nagorao Panchal,
Age 31 years, Occu. Household
6. Sahebrao s/o Madhavrao Panchal,
Age 46 years, Occu. Agri.
7. Sumitra w/o Sahebrao Panchal,
Age 40 years, Occu. Carpenter,

Applicant Nos.1 to 5 resident of
Nandkishor Nagar, Nanded

Applicant Nos.6 and 7 residents
of Near Jagrut Hanuman Mandir,
Nanded

..Applicants

Versus

1. The State of Maharashtra,
through Police Inspector,
Bhagyanagar Police Station,
Nanded, District Nanded
2. Ushabai w/o Kamaji Panchal,
Age 30 years, Occu. Household,
R/o Nandkishor Nagar, Nanded

..Respondents

Mr A.A. Mukhedkar, Advocate for applicants
Mr N.T. Bhagat, A.P.P. for respondent No.1
Mr A.A. Kakad, Advocate for respondent No.2

CORAM : V.K. JADHAV, J.**DATE : 26th July 2016****PER COURT**

Heard both sides.

2. By way of this application, the applicants are seeking quashing of the judgment and order dated 22.4.2008, passed by the Judicial Magistrate, First Class-II, Nanded in R.C.C.No.1295/2005 with the consequential prayer that the Criminal Appeal preferred by the applicant/husband against the said judgment passed by the learned Judicial Magistrate, First Class bearing Criminal Appeal No.33/2008 and the Criminal Appeal No.52/2008 preferred by the State against the judgment of acquittal passed in favour of the present applicants No.2 to 7 may be disposed of.

3. Learned Counsel for the applicants submits that the matter is amicably settled between the parties and the applicant No.1-husband and respondent No.2-wife have resumed the cohabitation since July 2010. They both are happily residing together and at present they do not have any grievance against each other. He submits that even the respondent/wife has filed her affidavit before this Court. He has further pointed out that in the pending appeal before the Sessions Court, the matter was referred for mediation and accordingly, the said settlement arrived at between the parties in terms of the compromise recorded at page 30-A. However, since the offence punishable under Section 498-A of Indian Penal Code is not compoundable, the learned Sessions Judge is not able to dispose of the Criminal Appeal though the matter is amicably settled between the parties. Learned Counsel appearing for the respondent-wife also accepted the same.

4. It appears from the affidavit submitted by the respondent-wife that the matter is amicably settled in terms of the compromise arrived at before the Mediator of the District Legal Services Authority, Nanded and accordingly, applicant No.1 - husband and respondent No.2 - wife have resumed the cohabitation since July 2010. In view of this, I proceed to pass the following order.

ORDER

(I) Criminal Application is hereby allowed;

(II) The judgment and order of conviction recorded by the Judicial Magistrate, First Class-II, Nanded dated 22nd April 2008 in R.C.C. No.1295/2005, for the offence punishable under Section 498-A of Indian Penal Code against the present applicant No.1/accused No.1 - Kamaji s/o Nagorao Panchal and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.3,000/-, in default to pay the fine amount, to suffer rigorous imprisonment for one month is hereby quashed and set aside.

(III) The applicant No.1/accused No.1 - Kamaji s/o Nagorao Panchal is hereby acquitted of the offence punishable under Section 498-A of Indian Penal Code vide R.C.C.No.1295/2005. The fine amount, if paid be refunded to the applicant No.1/accused No.1.

(IV) In the light of above, Criminal Appeal No.33 of 2008 preferred by present applicant No.1 and the Criminal Appeal No.52 of 2008 preferred by the State pending before the learned Sessions Judge at Nanded do not survive and the same are accordingly disposed of.

5. Criminal Application is accordingly disposed of.

(V.K. JADHAV, J.)

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