

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 933 OF 2015

SHRI ANIL S/O KISAN VIRUDKAR AND ANR  
VERSUS  
THE STATE OF MAHARASHTRA

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Advocate for Petitioners : Mr. Bolkar Yogesh B  
APP for Respondent: Mr. P.N. Kutti

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**CORAM : V. K. JADHAV, J.**  
**DATED : 13<sup>th</sup> JANUARY, 2016**

**PER COURT:-**

1. By the present writ petition, the petitioners, who are husband and wife, seek to quash and set aside the judgment and order of conviction dated 7.9.2013 passed by the J.M.F.C. Bhusawal in R.C.C. No. 208 of 2007, whereby the court has convicted the present petitioner No.1 for the offence punishable under Section 498-A of I.P.C. and sentenced him to suffer R.I. for one month and to pay fine of Rs.5000/- i/d to suffer S.I. for 15 days.

2. Learned counsel for the petitioners submits that the petitioners have mutually decided to live separate and accordingly they had filed Hindu Marriage Petition No. 98 of 2015 before learned C.J.S.D. Bhusawal for divorce by mutual consent. Counsel submits that the said petition is allowed and accordingly the marriage of the petitioners is dissolved by mutual consent under Section 13-B of

Hindu Marriage Act 1955 and decree is drawn accordingly. Learned counsel further submits that now the petitioners have filed this petition praying therein to quash and set aside the conviction recorded against petitioner No.1, as aforesaid.

Learned counsel for the petitioners, to substantiate his submissions, places reliance on the judgment of this Court in the case of ***Gambhir Rajaram Chaudhari & Ors. vs. Nirmala Bhaskar Chadhari & Anr, reported in 2005 (2) Bom.C.R. (Cri.) 645*** and the judgment of the Supreme Court in the case of ***Gian Singh vs. State of Punjab and another, reported in (2012) 10 SCC 303***.

3. It appears that the petitioners are young persons. They have decided to live separate and accordingly obtained decree of divorce from competent court by mutual consent. In exercise of inherent powers to quash the proceedings to meet the ends of justice would facilitate the petitioners settling earlier and forever. Thus, I am inclined to exercise the inherent powers to quash the conviction. Considering their future there is no point in continuing with the criminal appeal No. 104 of 2013 preferred by present petitioner No.1 before the Additional Sessions Court at Bhusawal against the judgment and order of conviction passed by the learned J.M.F.C. Bhusawal in R.C.C. No. 208 of 2007.

4. In view of this, following order is passed:-

O R D E R

- I. Criminal writ petition is allowed.
- II. The judgment and order of conviction passed by the J.M.F.C. Bhusawal, in R.C.C. No. 208 of 2007 dated 7.9.2013 thereby convicting petitioner No.1 for the offence punishable under Section 498-A of I.P.C. and sentencing him to suffer R.I. for one month and to pay fine of Rs.5000/- i/d to suffer S.I. for 15 days, is quashed and set aside.
- III. The petitioner No.1 Anil Kisan Virudkar is hereby acquitted of the offence punishable under Section 498-A of I.P.C. in R.C.C. No. 208 of 2007.
- IV. Criminal appeal No. 104 of 2013 pending before Additional Sessions Judge, Bhusawal has been rendered infructuous.
- V. Writ petition is disposed of accordingly. No costs.

**( V. K. JADHAV, J.)**