

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

CRIMINAL WRIT PETITION NO. 1431 OF 2015

- 1] Santosh Hariappa Kapase,
age 40 years, occ. Agriculuture,
R/o Lasina, Taluka and
District Hingoli,
- 2] Ranjanabai Tukaram Kapase,
age 50 years, occ. Service,
R/o as above. ...Petitioners

VERSUS

- 1] The State of Maharashtra,
through Kalamnuri police station,
District Hingoli,
- 2] Kaveribai w/o Santosh Kapase,
age major, occ. Household,
R/o Lasina, Tq. And Dist.Hingoli ...Respondents

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Shri S.R.Shirsat, advocate for petitioners
Shri N.T.Bhagat, A.P.P. for respondent no.1/State
Shri P.G.Tambade, advocate for respondent no.2
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CORAM : INDIRA K.JAIN, J.
DATED : 2nd February, 2016

ORDER :

Rule. Rule made returnable forthwith. Heard finally with
the consent of the learned counsel for the parties.

- 2] Leave to place on record certified copies of application
for compounding, purshis dated 5.8.2014 and affidavit of the
complainant, dated 18.8.2015.

3] The facts giving rise to the present petition may be stated in brief as under.

Respondent no.2 is the wife of petitioner no.1. She lodged F.I.R. against the petitioners and the other relatives of petitioner no.1.

On the complaint of respondent no.2 Crime No. 68 of 2007 was registered at Kalamnuri police station for the offences under Sections 498A, 323, 506 r/w 34 of the Indian Penal Code. After investigation, charge sheet came to be filed before the learned Judicial Magistrate, First Class, Hingoli. Petitioners are original accused nos. 1 and 8.

Learned Judicial Magistrate, First Class vide judgment and order, dated 5.4.2010 passed in R.C.C. No. 390 of 2007 convicted the petitioners for the offence punishable under Section 498A r/w 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for six months and fine of Rs.500/- each, in default simple imprisonment for one month. Rest of the accused were acquitted of the charges alleged against them.

4] Being aggrieved by the judgment and order of conviction, petitioners preferred Criminal Appeal Nos. 14 of 2010 and 16 of 2010 before the Sessions Judge, Hingoli. During pendency of appeals, complainant/respondent no.2 and petitioners settled the dispute. They presented a joint application and purshis dated 5.8.2014 before the first Appellate Court. Complainant also submitted affidavit, dated 18.8.2015 mentioning therein that she has resumed the company of her husband and she has no grievance against accused nos. 1 and 8.

5] Learned counsel for petitioners and respondent no.2 stated that the first Appellate Court had not passed any order in respect of compounding of offence, as offence under Section 498A of the Indian Penal Code is not compoundable. Learned counsel for respondent no.2, upon instructions, submits that her grievances have been redressed and she has resumed the company of her husband.

6] In the above premise, no purpose would be served in keeping the Writ Petition pending. Hence the following order.

ORDER

- (i) Criminal Writ Petition No. 1431 of 2015 is allowed.
- (ii) Petitioners/original accused Nos. 1 and 8 are acquitted of the offence punishable under Section 498A r/w 34 of the Indian Penal Code.
- (iii) Rule is made absolute in terms of amended prayer clause 'B'.
- (iv) No order as to costs.

[INDIRA K.JAIN, J.]