

IN THE HIGH COURT OF BOMBAY AT GOA.
CRIMINAL WRIT PETITION NO. 27 OF 2016.

1. Shri Dinesh Divkar @ Divekar,
Son of Dinanath Divkar, 38
years of age, Resident of H.
No.449, Chamarkon,
Maulingem, Bicholim-Goa.
Represented herein by his
Constituted attorney the
Petition No.2(Constituted vide
Power of Attorney dated
03/09/2014 executed before
Notary Savli S. Arolkar and
registered in her office under
No.249/2014.
 2. Shri Rajesh Divkar @ Divekar,
son of Dinanath Divkar, 36
years of age, Resident of H. No.
449, Chamarkon, Maulingem,
Bicholim-Goa.
 3. Smt. Vishranti Divkar @
Divekar, wife of Dinanath
Divkar, 61 years of age,
Resident of H. No. 449,
Chamarkon, Maulingem,
Bicholim-Goa.
 4. Ms. Geetanjali Divkar @
Divekar, daughter of Dinanath
Divkar, 30 years of age,
Resident of H. No. 449,
Chamarkon, Maulingem,
Bicholim-Goa.
- Petitioners.

Versus

1. State, Through Officer in
charge, Bicholim Police Station.
2. Dipali Dinesh Divkar @ Ujwala

Ravindra Kalangutkar, Wife of
Dinesh Divkar, Major of age, r/o
H. No. 629, Varpal, Mayem,
Bicholim-Goa.

.... Respondents

Mr. A. D. Bhobe, Advocate for the petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the respondent no.1.

Mr. A. Naik, Advocate for the respondent no.2.

**Coram:-F. M. REIS,
NUTAN D. SARDESSAIJJ.**

Date: 4th April, 2016.

ORAL JUDGMENT (Per F. M. REIS, J)

Heard Mr. A. Bhobe, learned Counsel appearing for the petitioner, Mr. S. R. Rivankar, learned Public Prosecutor for the respondent no.1 and Mr. A. Naik, learned Counsel appearing for the respondent no.2.

2. Rule.

3. Heard forthwith with the consent of the learned Counsel appearing for the respective parties. The learned Counsel appearing for the respondents waive notice on behalf of the respondents.

4. The above petition inter alias seeks to quash and set

aside the charge sheet lodged before the Judicial Magistrate, First Class at Bicholim ("JMFC, Bicholim" for short) under Section 498-A of the Indian Penal Code("IPC" for short).

5. Mr. Bhobe, learned Counsel appearing for the petitioner points out that FIR was lodged on account of misunderstanding of the facts and that the proceedings initiated by the respondent no. 2 bearing case No.DVA/10/2014/A under Domestic Violence Act("DVA" for short) have been amicably settled and consent terms have been filed before the JMFC, on 20.4.2015. Mr. Bhobe, learned Counsel further points out that based on the said consent terms proceedings under DVA came to be disposed of. Mr. Bhobe, also brought to our notice that clause 12 of the consent terms which inter alia points out that the respondent no. 2 would withdraw the Criminal proceedings initiated under Section 498-A of the IPC.

6. Mr. A. Naik, learned Counsel appearing for the respondent no. 2 has no objection to quash and set aside the said criminal proceedings.

7. Mr. S. R. Rivankar, learned Public Prosecutor appearing for the respondent no.1 has no objection.

8. Taking note of the judgment of the Apex Court in the case of **Rajiv Saxena Vs. State(NCT) Delhi, reported in 2012(5) SCC 627,** and in view of the peculiar facts and circumstances of the case and the consent terms referred to by Mr. Bhobe, learned Counsel appearing for the petitioner, we find that continuation of the criminal proceedings, filed by the respondent no.2 would not at all be justified, as the consent terms were accepted and acted by the parties. It is also pointed out that the proceedings under DVA has also been disposed of based on the said consent terms. The question of continuation of subject charge sheet lodged before JMFC, Bicholim would not at all be justified. Hence we pass the following:-

ORDER

- i. The petition is allowed.
- ii. The subject Chargesheet bearing No.112/2014 dated 4.9.2014 stands quashed and set aside.
- iii. Rule is made absolute in the aforesaid terms.
- iv. Petition stands disposed of accordingly.

NUTAN D. SARDESSAI J.

F. M. REIS, J.