

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2163 OF 2016

Vilas Gyanba Jawale,
Age 42 years, Occu. Service,
R/o. Kamal Nagar, Hingoli,
Tq. & District Hingoli

....Applicant.

Versus

1. State of Maharashtra
Through P.S.I.
City Police Station, Hingoli
Tq. and District Hingoli.

2. Jayshree w/o. Vilas Jawale,
Age 36 years, Occu. Nil,
R/o. Hingoli, Tq. & Dist. Hingoli

....Respondents.

Mr. P.S. Agrawal, Advocate for applicant.

Mr. S.D. Ghayal, APP for respondent/State.

Mr. S.R. Shirsat, Advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.

DATED : March 23, 2017.

ORAL JUDGMENT :

1) Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The present proceeding is filed by the appellant from Criminal Appeal No. 7/2009, presently pending in the Sessions Court, Hingoli. The appeal is filed against the judgment and

order of conviction given by Judicial Magistrate, First Class, Hingoli in R.C.C.No. 394/2003 and conviction and sentence is given for the offence punishable under sections 498-A and 506 (II) of the Indian Penal Code. Both the sides are heard. The learned APP is also heard.

3) Both the sides have produced the document of compromise. The learned counsels representing both the sides viz. Shri. P.S. Agrawal and Shri. S.R. Shirsat submit that parties are present in the Court hall and the counsels are identifying them. The prayer is made in compromise document to allow them to compound the matter and set aside the conviction and to acquit the husband of the offences and the parties are resuming cohabitation by settling the dispute.

4) The learned counsel placed reliance on the observations made by this Court in the case reported as **2006 Cri.L.J. 4591 [Kiran Tulshiram Ingale Vs. Anupama P. Gaikwad and Ors.] BOMBAY HIGH COURT**. The Division Bench has considered similar point. It is laid down by the Division Bench that even if there is conviction and appeal is pending in Sessions Court, there is power with the High Court to allow the parties to settle the dispute and this Court can set

aside the conviction and the proceeding can be quashed. It is observed that inherent powers can be exercised by the High Court for giving such relief. In the present matter, there is no specific relief claimed in respect of the criminal appeal. This Court presumes that the relief is claimed in respect of criminal case in which conviction is given. In view of the aforesaid circumstances and the position of law, this Court holds that the present proceeding needs to be allowed.

5) So, the application is allowed. The judgment and order of conviction of J.M.F.C., Hingoli is hereby set aside. Parties are allowed to compound the offences and this order is made by using inherent power. The proceeding is disposed of as compounded and the accused stands acquitted. Appeal is also disposed of accordingly.

Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/