

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

CRIMINAL APPLICATION NO. 7010 OF 2016

1. Parasnath Punjaram Khaire,
Age: 56 years, Occu: Nil.
2. Vimal w/o Parasnath Khaire,
Age: 76, Occu: Household.
3. Romit Parasnath Khaire,
Age: 29 years, occu. Nil.

All R/o Podi No. 2 Sector 16,
Near Pillari College, New Panvel,
Tq. Panvel, Dist. Raigad.

...APPLICANTS

versus

1. The State of Maharashtra,
Through Police Station In-charge
M.I.D.C. Waluj, Ta. And
District Aurangabad.
2. Sandhya w/o Romit Khaire,
Age: 25 years, Occ. Household,
R/o: R. M. 261/4 Wadgapm Lp;jado.
Bajajangar, Tq. & Dist. : Aurangabad. ...RESPONDENTS

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Mr. Narendra B. Patekar, Advocate for applicants
Mr. S.P. Deshmukh, APP for Respondent No. 1
Mr. S.R. Andhale, Advocate for respondent No. 2

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**CORAM : S.S. SHINDE AND
K.K. SONAWANE, JJ.**

DATED : 21st FEBRUARY, 2017.

ORAL JUDGMENT :- (Per: K.K. Sonawane, J.)

1. Heard learned counsel for the applicants and APP for respondent No. 1 and learned counsel appearing for respondent

No. 2.

2. Rule. Rule made returnable forthwith. Heard finally, with the consent of parties.

3. The applicants have preferred the present application to quash and set aside First Information Report (For short "FIR") vide Crime No. I-248 of 2014 registered with MIDC Waluj Police Station Taluka and District Aurangabad, for the offences punishable under sections 498-A, 323, 504 and 420 read with section 34 of the Indian Penal Code (for short "IPC"). It has been contended on behalf of the applicants that they are falsely implicated in this crime. There was no mental or physical ill-treatment to the first informant/ complainant, however, with malafide intention FIR came to be filed. Pursuant to the FIR, Police of MIDC Waluj Police Station registered the aforesaid crime and set the investigation into motion. Pending investigation, the applicants approached this Court under section 482 of the Criminal Procedure Code (for short "Cr.P.C.") and filed this application.

4. After receipt of notice, respondent No. 2 appeared in the proceeding and opposed the contentions put forth by the applicants. During the course of hearing, it has been submitted that the spouses settled the marital dispute amicably. They

decided to take divorce. The applicants and respondent No. 2 have filed joint compromise *pursis* on record duly verified before the Registrar (Judicial) of this court. The same is taken on record and marked as "X" for identification purpose. The first informant-respondent No. 2 Sandhya w/o Romit Khaire and her husband applicant No. 3 Romit Parasnath Khaire are present before this court. They are identified by their respective counsel. We have interacted with them on the issue of amicable settlement and marital discord between them. In the joint compromise *pursis*, in explicit manner it has been stated that marital discord came to be settled and the spouses i.e. first informant - respondent No. 2 Sandhya w/o Romit Khaire and her husband applicant No. 3 Romit Parasnath Khaire took decision for dissolution of their marital relations. It appears that First informant- respondent No. 2 Sandhya w/o Romit Khaire voluntarily expressed her desire to withdraw the allegations nurtured against the applicants in the FIR and she does not want to proceed further following amicable settlement between the parties. Therefore, she has no objection to set aside and quash the impugned FIR.

5. We have carefully considered the submissions advanced on behalf of learned counsel appearing for the parties. Perused the joint compromise *pursis* filed on record by the applicants and the first informant - respondent No. 2 Sandhya w/o Romit Khaire. As

the first informant - respondent No. 2 Sandhya w/o Romit Khaire voluntarily expressed her desire for withdrawal of the allegations nurtured against the applicants in the FIR. The spouses also obtained decree of dissolution of marriage from the concerned Civil Court. In such peculiar circumstances, there is no propriety to compel the respondent No. 2-wife to persuade criminal proceedings filed against the applicants for charges of cruelty under section 498-A of the IPC. In contrast, in case the proceeding is closed by setting aside the FIR, it would bring mental peace in the family of the spouses. Therefore, continuation of the prosecution case against the applicants would be an abuse of process of law. So also, no purpose would be sub-served in case the proceeding is allowed to be continued for trial of the applicants before the court of law. There are remote chances of conviction of the applicants for the charges pitted against them.

6. In view of legal guidelines delineated by the Hon'ble Apex Court in the case of ***Gian Singh Vs State of Punjab and another*** reported in ***(2012) 10 SCC 303***, we do not find any impediment to quash and set aside the impugned FIR. It would be an futile efforts and abuse of process of law. It would dissipate precious time and energy of the Court of law. In the result, we find it justifiable to quash and set aside the FIR vide Crime

bearing No. I-248 of 2014 registered with MIDC Waluj Police Station Taluka and District Aurangabad, for the offences punishable under sections 498-A, 323, 504 and 420 read with section 34 of the IPC. In sequel, application is allowed in terms of prayer clause "B". Rule is made absolute accordingly. No order as to costs. Informed the concerned Investigating Officer accordingly.

Sd/-

[K. K. SONAWANE, J.]

Sd/-

[S.S. SHINDE, J.]

MTK