

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Criminal Application (APL) No.382/2016
(Sou. Alka w/o Kapil Tabhane and others .vs. State of Maharashtra through
Office Incharge, P.S. Sakkardara, Nagpur and others.)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions Court's or Judge's orders.
 and Registrar's orders

Mr. R.S. Naktode, Advocate for Applicants.
 Mr. S.A. Ashirgade, Additional P.P. for N.A.No.1.

CORAM : R.K. Deshpande & Manish Pitale, JJ.
DATED : August 29, 2017.

In Regular Civil Suit No.159/2010, non-applicant no.2 Usha Gambhirsingh Rana Sisodia is the plaintiff whereas the applicant no.1 Sou. Alka Kapil Tabhane is the defendant no.1. The suit was for declaration, cancellation of sale deed and permanent injunction.

2. The present application seeks relief of quashing of Regular Criminal Case No.2624/2010 (State of Maharashtra .vs. Alka and others) arising out of First Information Report No.125/2010 dated 12.07.2010, registering the offences punishable under Sections 419, 420, 467, 468, 469, 471 and 120-B read with Section 34 of the Indian Penal Code, pending before the Judicial Magistrate First Class, Corporation Court No.1, Nagpur. In Criminal Application (APL) No. 730 of 2014 decided by the Division Bench of this Court on 02.12.2014, this Court has set aside the charge sheet in Regular Criminal

Case No.0302624/2010 arising out of Crime No. 125 of 2010 for the same offences. This Court has held that the dispute between the parties is predominantly and overwhelmingly of civil nature and since the respondent no.2 who is also the non-applicant no.2 in the present criminal application, has herself compromised in regular civil suit filed by her, no fruitful purpose would be served by permitting the criminal proceedings to drag on.

3. Since the present matter arises in respect of the offences punishable under the same provisions of the Indian Penal Code, no different view of the matter can be taken and following the decision of this Court in Criminal Application (APL) No. 730 of 2014, this application will have to be allowed.

4. In the result, the application is allowed in terms of prayer clause (i) of the application which is reproduced below:

"(i) Quash Regular Criminal Case No.2624/2010, State of Maharashtra = Versus = Alaka and others, arising out of First Information Report No.125/2010 dated 12/07/2010, registered by the non-applicant No.1 police authority for the offence punishable under Section 419, 420, 467, 468, 469, 471, 120-B read with Section 34 of the Indian Penal Code 1860, pending before Hon'ble

Judicial Magistrate First Class,
Corporation Court No.1, Nagpur."

JUDGE

JUDGE

halwai