

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO. 368/2017
(VIJAY NARHARI MALOKAR & ANOTHER VERSUS STATE OF MAHARASHTRA & ANOTHER)

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

Court's or Judge's orders

Shri J.B. Gandhi, counsel for the applicants.
Ms T.Khan, A.P.P. for the NA-1.
Shri N.Tekade, counsel for the NA-2.

CORAM : SMT. VASANTI A NAIK AND
M.G. GIRATKAR, JJ.
DATE : AUGUST 23, 2017.

Leave is granted to the applicants to join
Sau.Rohini Ramakant Gaikwad as party applicant as the non-
applicant no.2 does not have an objection to the said joinder.

The amendment should be carried out forthwith.

JUDGE

JUDGE

APTE

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DATE : AUGUST 23, 2017.

By this criminal application, the applicants have sought the quashing and setting aside of F.I.R. No.109 OF 2016 registered against the applicants for the offences punishable under Sections 498-A, 323 and 506 of the Penal Code. The applicants have sought the quashing of the further proceedings arising out of the registration of F.I.R. No.109 of 2016.

The applicants are the father-in-law and the mother-in-law of the non-applicant no.2. Shrikant, the son of the applicants was married with the non-applicant no.2 in 2008. There were some disputes between the parties after a few years of the marriage and the non-applicant no.2 lodged a report against the applicants in Police Station Ramdaspath, Akola. On the basis of the report lodged by the non-applicant no.2, the first information report was registered against the applicants for the offences punishable under Section 498-A, 323 and 506 of the Penal Code. The husband of the non-applicant no.2, viz. Shrikant expired at Akola on 18.05.2016.

After his death, the matter was amicably settled between the applicants and the non-applicant no.2 and the non-applicant no.2 is not desirous of participating in the trial pending against the applicants. Since the applicants and the non-applicant no.2 have compromised the matter, this criminal application is filed for quashing and setting aside of F.I.R. No.109 of 2016 and the proceedings arising therefrom.

The parties are personally present in the Court, today. We have specifically asked the non-applicant no.2 whether she has compromised the matter with the applicants who are her father-in-law, mother-in-law and her sister-in-law. The non-applicant no.2 has stated in the Court that the dispute between the parties have been amicably settled and she is not desirous of prosecuting the applicants in the proceedings that are pending against them in pursuance of the report lodged by her against them for the offences punishable under Sections 498-A, 323 and 506 of the Penal Code. The non-applicant no.2 has requested the Court that the first information report registered against the applicants may be quashed and set aside.

In the circumstances of the case, since the non-applicant no.2 is not willing to participate in the trial pending against the applicants for the offences punishable under Sections 498-A, 323 and 506 of the Penal Code, it would be necessary to quash and set aside the first information report and the proceedings arising therefrom, as it is unlikely that the trial would result in the conviction of the applicants without the non-applicant no.2 participating in the same. Since the parties have compromised the matter, by relying on

the law laid down in the case of Gian Singh Versus State of Punjab, reported in (2012) 10 SCC 303, it would be necessary to quash and set aside the first information report to prevent the abuse of process of the Court and to secure the ends of justice.

Hence, for the reasons aforesaid, the criminal application is allowed. F.I.R. No.109 of 2016 registered against the applicants for the offences punishable under Sections 498-A, 323 and 506 of the Penal Code and the proceedings arising therefrom, are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE

APTE