

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.600 OF 2017

1. Anjum Bano d/o. Sattar Khan
Pathan (w/o. Rijwan Ahmed),
Aged about 36 years, Occ. Nil,
r/o. Lal Nagar, Shantinagar,
Nagpur.
2. Rijwan Ahmed s/o. Vakil Ahmed,
Aged about 42 years, Occ.Business.
3. Kaniya wd/o. Vakil Ahmed,
Aged about 62 years, Occ. Nil.
4. Mubassir Ahmed s/o. Vakil Ahmed,
Aged about 39 years, Occ.
Business.
5. Mohsin Ahmed s/o. Vakil Ahmed,
Aged about 38 years, Occ. Business,

Non-Applicant Nos. 2 to 5 are
r/o. Behind Bata Company,
Khairpura, Itwari, Nagpur.

.....

APPLICANTS

// **VERSUS** //

State of Maharashtra,
through Police Station Officer,
Police Station Tahsil,
Nagpur.

..... **NON-APPLICANT**

Mr.S.A.Malani, Advocate for the Applicants.
Ms Tajwar Khan, A.P.P. for the Non-Applicant.

CORAM : SMT. VASANTI A NAIK
AND
M.G.GIRATKAR, JJ.

DATED : 27th September, 2017.

ORAL JUDGMENT (Per M.G.Giratkar, J) :

1. The Criminal Application is admitted and heard finally with the consent of the learned Counsel for the applicants.

2. By this Criminal Application, the applicants have prayed to quash and set aside the proceedings in Regular Criminal Case No.364 of 2011 pending before the learned Judicial Magistrate, First Class (Court No.4), Nagpur. It is submitted that applicant no.1 and 2 were married on 2nd March, 2003 as per the Muslim rites and customs at Nagpur. The applicant started co-habiting with applicant

no.2. Due to vast difference in the nature of applicant nos. 1 and 2, they could not co-habit together. There was matrimonial dispute between them. They were staying separately. Applicant no.1 lodged report against applicant nos. 2 to 5. On the report of applicant no.1, offence under Section 498-A r/w. 34 of the Indian Penal Code was registered against applicant nos. 2 to 5. After investigation, charge sheet came to be filed and the proceedings were initiated vide Regular Criminal Case No.364 of 2011 against the applicants before the Judicial Magistrate, First Class (Court No.4), Nagpur.

3. It is submitted that due to intervention of elderly members of the family and with the help of Counseling Centre of the Family Court, Nagpur, the parties have settled the dispute amicably on the terms and conditions enumerated in Joint pursis dt.15.4.2014. Said pursis is filed at Annexure-2.

4. Heard the applicants and their Counsel. Applicant no.1 and her husband/applicant no.2 are present before the Court. Applicant no.1 has stated before us that she has settled the dispute before the Family Court as per the terms and conditions of Compromise. She has received all the monetary benefits. She does not wish to prosecute

applicant nos. 2 to 5. The Apex Court in the case of **B.S.Joshi and Others vs. State of Haryana and another** reported in (2003) 4 SCC 675 has held that if the matrimonial dispute has been settled between the parties, this Court can exercise powers under Section 482 of the Criminal Procedure Code to quash and give an end to the criminal proceedings. We find that the present case is a fit case where this Court should exercise powers under Section 482 of the Criminal Procedure Code and give an end to the criminal proceedings. Hence, the proceedings in Regular Criminal Case No.364 of 2011 pending before the Judicial Magistrate, First Class (Court No.4), Nagpur are liable to be quashed and set aside.

5. Hence, we allow the Criminal Application in terms of the prayer clause (ii) and quash and set aside the proceedings in Regular Criminal Case No.364 of 2011 pending before the Judicial Magistrate, First Class (Court No.4), Nagpur. Since main application i.e. Criminal Application No.600 of 2017 is disposed of, Criminal Application No.1490 of 2017 for dispensing with Office objection is also disposed of. Order accordingly.

No order as to costs.

JUDGE

JUDGE

[jaiswal]