

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION NO.658 OF 2017

1. Akash s/o. Vinay Ukey,
Aged about 25 years, Occ.
Labourer.
2. Sau.Jyoti w/o. Vinay Ukey,
Aged about 49 years, Occ.
Household.
3. Vinay s/o. Baliram Ukey,
Aged about 53 years,
Occ. Driver.

All r/o. Block No.C/118,
Martin Nagar, Jaripatka,
Nagpur.

..... APPLICANTS

// **VERSUS** //

- 1.The State of Maharashtra,
through Police Station Officer,
Police Station, Jaripatka,
Nagpur (City).

2.Sau. Jacenta w/o. Akash Ukey,
Aged about 24 years, Occ.Private,
r/o. C/o. Sanjay Meshram, Plot
No.157, 5th Lane, Vishwas Nagar,
Jaripatka, Nagpur. RESPONDENTS

Mr.E.W.Nawab, Advocate for the Applicants.
Mr.A.M.Joshi, A.P.P. for the Respondent No.1.
Mr.S.S.Saddal, Advocate for the Respondent No.2.

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.4728 of 2016 arising out of Crime No.653 of 2016, u/s. 498-A r/w. 34 of the Indian Penal Code pending before the learned Judicial Magistrate, First Class (Court No.7), Nagpur. It is submitted that

non-applicant no.2 lodged the report against the applicants in Police Station, Jaripatka due to anger. Non-applicant no.2 is legally wedded wife of applicant no.1. After complete investigation, charge sheet came to be filed before the Judicial Magistrate, First Class (Court No.7), Nagpur and Regular Criminal Case No. 4728 of 2016 was registered and is pending.

4. After lodging the report, non-applicant no.2 delivered a female child on 10.4.2017 namely Ku.Shifa. In the interest of future life of their child, both husband and wife have decided to settle their dispute and live a happy life. Now, applicant no.2 is residing with her husband/applicant no.1 with their minor child. It is submitted that non-applicant no.2 lodged report in a heat of anger. There was no any such cruelty as stated by non-applicant no.2. Hence, it is prayed to quash and set aside the proceedings in Regular Criminal Case No.4728 of 2016.

5. Non-applicant nos. 1 and 2 both are present before the Court. Non-applicant no.2 has stated before us that she is residing with her husband/applicant no1.. They are having a minor child. She has stated before us that due to misunderstanding she lodged report

against the applicants. Non-applicant no.2 prayed to quash and set aside the proceedings in R.C.C. No.4728 of 2016 pending against the applicants.

6. In view of the subsequent developments, it is clear that non-applicant no.2 is residing with her husband/applicant no.1 peacefully with their minor daughter. It is also clear from the submissions that the report was lodged in a heat of anger. There is no possibility of giving evidence against the applicants by non-applicant no.2. There is also no possibility of terminating the proceedings into conviction. Hence, it will not be proper to keep the Criminal Case pending against the applicants. In view of the law laid down by Hon'ble Supreme Court in the case of **Narinder Singh and Others vs. State of Punjab and Others, (2014) 6 SCC 466** and **Gian Singh vs. State of Punjab and another** reported in (2012) 10 SCC 303, Regular Criminal Case No.4728 of 2016 arising out of Crime No.653 of 2016, u/s.498-A r/. 34 of the Indian Penal Code pending before the Learned Judicial Magistrate, First Class (Court No.7), Nagpur is liable to be quashed and set aside.

5. Hence, we allow the Criminal Application in terms of the prayer clause and quash and set aside Regular Criminal Case No.4728 of 2016 arising out of Crime No.653 of 2016, u/s.498-A r/. 34 of the Indian Penal Code pending before the Learned Judicial Magistrate, First Class (Court No.7), Nagpur. Order accordingly.

No order as to costs.

JUDGE

JUDGE

[jaiswal]

