

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 675 OF 2016

- 1) Virbhadra s/o Manmathappa Jante,
Age 44 years, Occupation Agri.,
R/o Hadoli Tq. Ahmedpur,
Dist. Latur. At Present
Ahmedpur Tq. Ahmedpur
Dist. Latur.
- 2) Ankusha w/o Manmathappa Jante,
Age 75 years, Occupation Household,
R/o Hadoli Tq. Ahmedpur
Dist. Latur. At Present
Ahmedpur Tq. Ahmedpur
Dist. Latur.
- 3) Mahadevi w/o Sadashiv Shetkar,
Age 36 years, Occupation Household,
R/o Zari Tq. Chakur Dist. Latur.
- 4) Vishwambhar s/o Trimbakrao Pune,
Age 65 years, Occupation Agri.,
R/o Hadoli Tq. Ahmedpur
Dist. Latur.
- 5) Madhavrao s/o Shivdas Pune,
Age 62 years, Occupation Agri.,
R/o Hadoli Tq. Ahmedpur
Dist. Latur.
- 6) Satish s/o Venkati Bade,
Age 24 years, Occupation Labour,
R/o Hadoli Tq. Ahmedpur
Dist. Latur.
- 7) Dattatriya s/o Govind Chate,
Age 36 years, Occupation Driver,
R/o Hadoli Tq. Ahmedpur
Dist. Latur.
- 8) Haribhau s/o Gopinath Shinde,
Age 35 years, Occupation Labour,

R/o Hadoli Tq. Ahmedpur Dist. Latur.

- 9) Prashant s/o Mallya Bulbule,
Age 32 years, Occupation Labour,
R/o Latur Tq. Dist. Latur. .. Petitioners.

VS.

- 1) The State of Maharashtra,
Through Police Inspector,
Ahmedpur Police Station,
Tq. Ahmedpur Dist. Latur.
- 2) Rani w/o Virbhadra Jante,
Age 22 years, Occupation Household,
R/o Saraf Line Phule Nagar,
Ahmedpur Tq. Ahmedpur
Dist. Latur. .. Respondents

Mr. A. J. Deshpande, Advocate holding for Mr. V. D. Gunale,
Advocate for petitioners.
Mr. D. R. Kale, Additional Public Prosecutor for respondent No. 1
/ State.
Mr. S. C. Swami Chakurkar, Advocate for respondent No.2.

**CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 15-03-2018

ORAL JUDGMENT (Per Smt. Vibha Kankanwadi. J.)

1. Rule. Rule made returnable forthwith with the consent of
learned counsels for the parties, the petition is heard finally.

2. The petitioners have invoked the powers of this Court
under Article 226 and 227 of the Constitution of India in order to
quash the First Information Report (Hereinafter referred as 'FIR')

bearing No. 110/2016 dated 31-03-2016 registered with Police Station, Ahmedpur Tq. Ahmedpur District Latur, for the offence punishable under Section 498-A, 323, 504, 506 (2), 313, 143, 147 and 148 of the Indian Penal Code.

3. It is not in dispute that, the petitioner No.1 got married with respondent No.2 on 05-03-2014. Petitioner No.2 is the mother-in-law of respondent No.2 and petitioners No.3 is her sister-in-law.

4. Respondent No.2 had filed report with the Police Station, Ahmedpur Dist. Latur stating that, prior to her marriage with petitioner No.1 there were three marriages of the petitioner No.1. His first wife died, second wife left him and third wife became mentally retired. Petitioner No.1 has one son and one daughter from his first wife, and both of them are presently studying. Informant was residing at Ahmedpur along with mother-in-law and children of first wife. Her married sister-in-law Devi used to come at Ahmedpur frequently. After informant became pregnant of three months, petitioner No.1, her mother-in-law and sister-in-law started ill-treating her on the count that petitioner No.1 already has two children from the first wife. Petitioner No. 1 was not desirous to have child from respondent No.2. Petitioner No.2, therefore, gave tablets to informant for permination of her pregnancy. Informant was

beaten when she refused to take tablets and forcibly gave those tablets to her. She was then admitted in the hospital. Thereafter her husband left her at her parental house at Bodhan Dist. Nizamabad. At Bodhan Dr. Chittibabu and Dr. Sanja Rani carried her sonography and told that her pregnancy has been terminated. She further alleged that, when she was at Ahmedpur at her matrimonial house, her father came to meet her on 23-03-2016. At that time accused persons had beaten her and threatened her to kill, so she left the house of petitioner No.1 and went with her father at Bodhan Dist. Nizamanabad. Thereafter, the informant had lodged the FIR.

5. The petitioners have contended that, allegations made by the respondent No.2 are false and vague. No particular date, month and year are given in respect of forcible termination of pregnancy, visit by her at her maternal house. Incident dated 29-03-2016 is concocted story. It is contended that, respondent No.2 was saying that she has no interest in the petitioner No. 1. Respondent had left matrimonial home on her own left. It has been contended that when his relatives and friends visited his house on 24-03-2016 , at that time respondent No.2 abused them and asked the petitioner No.1 to deposit Rs.5 lakh in her name and give her divorce, as well as execute sale deed of two acres of land in her name. Therefore, petitioner No.1 filed complaint with police station against respondent No.2 on 23-03-2016. He has also filed complaint on 29-03-2016 with

Police Station when father of respondent No.2 assaulted him at his resident house. Allegations made against them by the respondent No.2 are false and vague.

6. The affidavit-in-reply has been filed by respondent No.2. It is stated that, petitioner No.1 and respondent No.2 settled the matter amicably and now they have decided to live peacefully. Respondent No.2 is ready to cohabit with Petitioner No. 1. She has stated that, due to misunderstanding and in anger she had lodged the FIR, therefore, she has no objection no objection to quash the FIR.

7. The respondent No.2 was before this Court. It was ensured from her, whether her consent is voluntary or not. She has stated that the dispute is resolved. We take the consent of respondent No.2 as voluntarily given.

8. It is to be noted that, the petitioner No.1 and respondent No.2 are husband and wife. There was dispute between them but now it appears that respondent No.2 has decided to cohabit with petitioner No.1 happily, and therefore, when she has resolved her dispute, we find this to be a fit case where we should exercise the inherent powers of this Court in the interest of the justice. Reliance can be placed on *M/s. Shakuntala Sawhney V. Mrs. Kaushalya Sawhney and Ors.*, MANU/SC/0532/1979 : [1979] 3 SCR 639,

wherein Hon'ble Krishna Iyer, J. has summarized the essence of compromise in the following words:

"The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.

37. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice."

38. No embargo, be in the shape of Section 320(9) of the Cr.P.C. or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

39. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to

forecast and predict eventualities which the cause of justice may throw up during the course of a litigation."

9. Further reliance can be placed on *Gian Singh Vs. State of Punjab and Another* [2012 SCC (10) 303], wherein it is observed that,

"However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R. if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

10. Therefore, taking into consideration the above-said observations; since the FIR is arising out of matrimonial dispute and now the dispute is settled, the petition deserves to be allowed. Hence, following order :

ORDER

- 1) Petition is hereby allowed.
- 2) Rule is made absolute in terms of prayer Clause-'C'.

(SMT. VIBHA KANKANWADI)
JUDGE

(PRASANNA B. VARALE)
JUDGE

vjg/-.