IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4212 OF 2017

1) Vinayak s/o Asaram Mitthe,
Age 32 years, Occupation Agri.,
R/o Majalgaon Road Ashti
Tq. Partur Dist. Jalana.

2) Asaram s/o Shriram Mitthe,
Age 70 years, Occupation Agri.,
R/o as above.

3) Gangabai w/o Aasaram Mitthe,
Age 35 years, Occupation Household,
R/o as above. .. applicants.

VS.

1) The State of Maharashtra,
Through Police Inspector,
Police Station, Ashti.

2) The Superintendent of Police,
Jalna Dist. Jalna.

3) Swati w/o Vinayak Mitthe,
Age 28 years, Occupation Household,
R/o. Majalgaon Road, Ashti
Tq. Partur Dist. Jalana. .. Respondents

Mr. M. S. Bhosale, Advocate for applicants.
Mr. S. W. Munde, Additional Public Prosecutor for respondent No. 1 / State.
Ms. Sheetal V. Salunke, Advocate for respondent No.2.

CORAM : PRASANNA B. VARALE &
SMT. VIBHA KANKANWADI, JJ.
DATE : 19-03-2018

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 applicants have invoked the powers of this Court under Section 482 of the Code of Criminal Procedure in order to quash the First Information Report (Hereinafter referred as 'FIR') bearing No. 57/2017 dated 29-06-2017 registered with Police Station Ashti Tq. Partur District Jalna, for the offence punishable under Section 307, 498-A, 504 read with 34 of the Indian Penal Code and Section 3, 4 of the Dowry Prohibition Act.

3. It is not in dispute that, applicant No.1 is the husband of respondent No.3 and they have two children, and applicants No.2 and 3 are the parents of applicant No.1.

4. Respondent No.3 had filed report with the Police Station stating that, since the marriage all accused-applicants harassed respondent No.3. All applicants were asking her to bring amount of Rs.3 lakh for the purpose of house and agricultural operations. When she told this fact to her father; her father, uncle and villagers had given understanding to accused-applicants. On the say of applicant No.1, father of respondent No.3 transferred two acres of his land in the name of applicant No.1. At that time applicant No.1 asked father of respondent No.3 that, the land will not be returned

unless he gives amount of rupees three lakh. Father of respondent No. 3 could not pay the money because of the financial conditions. Therefore applicant No.1 had beaten respondent No.3 by means of iron rod on her head, left hand and whole body, and fractured her left hand and tried to kill her on 29-06-2017 at about 8.00 p.m. Applicants No.2 and 3 had beaten her by kicks and fists. Respondent No. 3 had become unconscious due to the assault. Applicants had then thrown her in front of their house. She had regained consciousness after some time. She made phone call to her father. Her father and others took her to Omkar Hospital, Pathri. Thereafter, the informant had lodged the FIR.

5. The applicants have contended that, the dispute was not serious and respondent No.3 lodged FIR because of some misunderstanding. Now, they have resolved to bring an end to all the disputes between them. They are ready to settle the dispute and cohabit happily. They have realized that the dispute between them is not good for the future of their children.

6. The affidavit-in-reply has been filed by respondent No.2 giving no objection. In view of amicable settlement, it is stated that, the informant has no desire to go ahead with the report and she has no objection to quash the proceedings. The applicants have therefore prayed for quashing the FIR filed against them.

7. It is to be noted that, the applicant No.1 and respondent No.3 are husband and wife. There was dispute between them but now it appears that, their dispute has been resolved and they have decided to cohabit. When the parties to matrimonial dispute have decided to resolve their dispute, we find this to be a fit case where we should exercise the inherent powers of this Court. 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."*
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> *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."

8. 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."

9. Therefore, taking into consideration the above-aid observations; since the FIR is arising out of matrimonial dispute and now the dispute is settled, husband and wife want to unite and want to live happy married life, we are of the opinion that 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/-.