

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

CRIMINAL APPLICATION (APL) NO. 139/2018

(MAHANAND SADANAND MALI & OTHERS **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 M.P. Kariya, counsel for the applicants.
 Shri B.M. Lonare, A.P.P. for the NA-1.

CORAM : SMT. VASANTI A NAIK AND
MRS. SWAPNA JOSHI, JJ.

DATE : FEBRUARY 27, 2018.

By this criminal application, the applicants seek the quashing and setting aside of the first information report registered against the applicants for the offence punishable under Section 498-A read with Section 34 of the Penal Code.

The marriage between the applicant no.1 and the non-applicant no.2 was solemnized on 10.10.2013 according to the customs prevailing in their community. In or about the year 2015, there were serious disputes between the applicants and the non-applicant no.2 and hence in a fit of rage, the non-applicant no.2 had filed the complaint against the applicants alleging therein that they had treated her with cruelty.

The applicant no.1 has filed proceedings against the non-applicant no.2 in the Family Court at Nagpur for a decree of divorce. With the intervention of the relatives and the Court, the applicant no.1 and the non-applicant no.2 have settled the matter and have decided to secure a decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act. It is stated that the consent terms are filed before the Family Court at Nagpur. It is stated that as per one of the terms in the compromise-deed executed between the applicant no.1 and the non-applicant no.2,

the non-applicant no.2 is required to take some steps for seeking the quashing and setting aside of the first information report and the charge-sheet filed against the applicants for the offence punishable under Section 498-A of the Penal Code.

The applicant no.1 and the non-applicant no.2 are personally present in the Court, today. It is stated by the non-applicant no.2 that there were several disputes between her and the applicants and after she separated from the applicants in the year 2015, she had lodged the complaint against the applicants. It is stated that she does not wish to prosecute the matter against the applicants as the disputes are settled and it is agreed that the marriage could be dissolved by a decree of divorce by mutual consent. The applicant no.1 and the non-applicant no.2 have requested that this Court may quash and set aside the first information report and the charge-sheet filed against the applicant in the circumstances of the case.

After talking to the applicant no.1 and the non-applicant no.2 for some time, we find that the applicants and the non-applicant no.2 have settled their disputes and the applicant no.1 and the non-applicant no.2 have filed proceedings before the Family Court for seeking a decree of divorce by consent under Section 13-B of the Act. Since the non-applicant no.2 is not desirous of prosecuting the matter against the applicant on the basis of the complaint lodged by her, it is unlikely that the prosecution would result in the conviction of the applicants. In the circumstances of the case, if the trial is permitted to be continued against the applicants, it would result in the abuse of process of the Court. Hence, with a view to secure the ends of justice and to prevent the abuse of the process of the Court, it would be necessary to quash and set aside the first information report and the charge-

sheet filed against the applicants by following the law laid down by the Hon'ble Supreme Court in the case of *Narinder Singh & Others Versus State of Punjab & Another*, reported in **(2014) 6 SCC 466**.

Hence, for the reasons aforesaid, the criminal application is allowed. The first information report registered against the applicants and the proceedings arising therefrom are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE

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