

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO. 283 OF 2018

- 1] Sushil Daramnath Sharma,
aged about 35 years, Occ. Mechanic,
- 2] Dharamnath Chandrika Sharma,
aged about 62 years, Occ. Labour,
- 3] Kranti Dharamnath Sharma,
aged about 55 years, Occ. Household,
- 4] Sujeet Dharamnath Sharma,
aged about 31 years, Occ. Private Service,

1 to 4 R/o. Plot No. 3, Dhore Layout,
Mankapur, Nagpur.
- 5] Renu Nitesh Sharma,
aged about 28 years, Occ. Household,
R/o. Badhaipara, Zenda Chowk,
Raipur (Chhatisgarh)

PETITIONERS

...VERSUS...

1. The State of Maharashtra,
through Police Station Officer,
Mankapur Police Station, Nagpur
2. Bobby @ Babita Sushil Sharma,
aged about 25 years, R/o. House of
Shri Panchbudhe, Behind Chitanvispura
Police Chowki, Nandaji Nagar,
Mahal, Nagpur-32

RESPONDENTS

 Shri Rohit Joshi, counsel for Petitioners.
 Smt. S.S.Jachak, APP for respondent No.1.
 Shri M.S.Gupta, counsel for respondent No.2

CORAM: R. K. DESHPANDE AND
ARUN D. UPADHYE, JJ.

DATE : 12th JUNE, 2018.

ORAL JUDGMENT (per Arun D. Upadhye, J.)

1] Rule made returnable forthwith.

Heard finally by consent of the learned counsels appearing for the parties.

2] This petition is filed under Article 226 of the Constitution of India, by the petitioners for quashing First Information Report No. 35 of 2017, registered in the Police Station at Mankapur, Nagpur, for the offence punishable under Sections 498-A, 494 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act as well as Charge Sheet registered as Regular Criminal Case No. 4550 of 2017 pending before the learned Additional Chief Judicial Magistrate, Nagpur.

3] The petitioner No.1 is the husband and the respondent No. 2 is the wife. The petitioner Nos. 2 to 5 are the relatives of the husband of respondent No.2. The respondent No.2 is present in the Court and submitted that she has obtained divorce by mutual consent on 02.03.2018

and settled the matter amicably and she does not want to proceed further.

4] Shri Rohit Joshi, the learned counsel appearing for the petitioners has submitted that in this matter charge sheet is filed and Regular Criminal Case No. 4550 of 2017 is pending before the Additional Chief Judicial Magistrate, Nagpur, for the offences punishable under Sections 498-A, 494 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act . He submitted that the matter is settled by the petitioners and respondent No.2. The respondent No.2 and the petitioner No.1 have obtained divorce by mutual consent in the Family Court at Nagpur. He, therefore, submitted that the proceedings filed against the husband and the relatives on the complaint of the respondent No.2 wife be quashed along with the charge sheet pending before the Additional Chief Judicial Magistrate, Nagpur.

5]. Shri M.S.Gupta, the learned counsel appearing for respondent No.2 has submitted that the matter has been settled and respondent No.2 has no objection for quashing the first information report and regular criminal case.

6] The applicants and respondent No.2 have settled the matter amicably and therefore, it is futile to proceed with the prosecution and it amounts to harassment of the petitioners if the criminal proceedings are continued. It is, therefore, necessary to quash and set aside the first information report as well as charge sheet filed against the petitioners. The Hon'ble Supreme Court in a case reported in **(2014) 6 SCC 466 (Narinder Singh and ors vs. State of Punjab and another)** has given detail guidelines for quashing of first information report/charge sheet. The guideline Nos. 29.2 and 29.5 are reproduced below :-

"29.2 When the parties have reached the settlement and on that basis, petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure :

- (i) Ends of justice, or
- (ii) to prevent abuse of process of any Court.

While exercising the power, the High Court is to form an opinion on either of the aforesaid two objectives.

29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases."

In view of the above guidelines, the present case is squarely covered and deserves to be allowed. Hence, the following order.

7] The writ petition is allowed. The First Information Report No. 35 of 2017, registered in the Police Station at Mankapur, Nagpur, for the offence punishable under Sections 498-A, 494 read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act as well as Charge Sheet registered as Regular Criminal Case No. 4550 of 2017 pending before the learned Additional Chief Judicial Magistrate, Nagpur is hereby quashed and set aside. No order as to costs.

JUDGE

JUDGE

Rvjalit