

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

CRIMINAL APPLICATION (APL) NO. 358/2018

(MUKESH BALAJI GULHANE & OTHERS VERSUS STATE OF MAHARASHTRA, THR. PSO PS
WADGAON ROAD, YAVATMAL)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Dhore, counsel for the applicants.
Mrs. Shamsi Haidar, A.P.P. for the non-applicant.

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

DATE : APRIL 19, 2018.

By this criminal application, the applicants seek the quashing and setting aside of the first information report registered against the applicant nos.1 and 3 to 5 under the provisions of Section 498-A read with Section 34 of the Penal Code.

The applicant no.1 is the husband of applicant no.2- Monali and their marriage was solemnized on 27.07.2011 as per the rites and custom prevailing in their community. The applicant nos.1 and 2 started residing separately since April-2014 and there is no matrimonial relationship between them after their separation. In March-2017, the applicant no.2 lodged a complaint against the applicant nos.1 and 3 to 5 that they had treated her with cruelty. It was alleged in the complaint that the applicant nos.1 and 3 to 5 had abused her and had ill-treated her, both physically and mentally. On the basis of the said complaint, the first information report was registered against the applicant nos.1 and 3 to 5 for the offence punishable under Section 498-A read with Section 34 of the Penal Code. The parties have now settled the matter and the applicant nos.1 and 2 have decided that their marriage should be dissolved by a decree of divorce by mutual consent. In view of the said agreement, the applicant nos.1 and 2 have filed a petition in the

Family Court under Section 13-B of the Hindu Marriage Act for a decree of divorce by mutual consent. As per one of the consent terms, the parties have agreed that the matters lodged or registered by them against each other should be withdrawn.

It is stated that the applicant no.2 has withdrawn the proceedings filed by her against the applicant no.1 under the provisions of Protection of Women from Domestic Violence Act. It is stated that since the parties have decided to part ways and live peacefully in future, the present application is filed for quashing and setting aside the first information report registered against the applicant nos.1 and 3 to 5.

The applicants are personally present in the Court today. The applicant no.2 has stated that she does not wish to pursue the matter registered against the applicant nos.1 and 3 to 5 on the basis of the complaint lodged by her. It is stated that since the parties had separated and since there was no possibility of a reunion, she had filed the report against the applicant nos.1 and 3 to 5 for the offence punishable under Section 498-A of the Penal Code.

In the circumstances of the case, it would be necessary to quash and set aside the first information report registered against the applicant nos.1 and 3 to 5. It appears that on the basis of the first information report, the charge-sheet is also filed against the concerned applicants. We have perused the allegations in the first information report. The allegations do not appear to be very serious. Even otherwise, the parties have agreed for a decree of divorce by mutual consent as the applicant nos.1 and 2 wish to live separately and peacefully in future. Since the applicant no.2 is not ready to pursue the matter against the applicant nos.1 and 3 to 5, it is most unlikely that the prosecution would result in the conviction

of the said applicants. Hence, with a view to prevent the abuse of the process of the Court and to secure the ends of justice, since the parties have compromised the matter, by relying on 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**, the first information report registered against the applicant nos.1 and 3 to 5 is liable to be quashed and set aside.

Hence, the criminal application is allowed. The first information report registered against the applicant nos.1 and 3 to 5 for the offence punishable under Section 498-A read with Section 34 of the Penal Code and the proceedings arising therefrom are hereby quashed and set aside.

Order accordingly.

JUDGE

JUDGE

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