

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

CRIMINAL APPLICATION (APL) NO.496 OF 2018

1. Jitendra s/o Sudhakar Duragkar,
Aged about 37 years,
Occupation : Service,
Permanent Resident of
Pot No.119, Gurudeo Nagar,
Nandanwan Main Road,
Nagpur, presently at Sankalp
Apartment, 2nd Floor,
Pandhari Nagari, Kharadi, Pune.
2. Sudhakar Gujabrao Duragkar,
Aged about : 68 years,
Occupation : Service,
Resident of Pot No.119,
Gurudeo Nagar, Nandanwan
Main Road, Nagpur.
3. Chaya Sudhakar Duragkar,
Aged about: 58 years,
Occupation : Homemaker,
Resident of Pot No.119,
Gurudeo Nagar, Nandanwan
Main Road, Nagpur.
4. Preeti w/o Mahesh Lanjewar,
Aged about : 39 years,
Occupation : Homemaker,
Resident of Pot No.119,
Gurudeo Nagar, Nandanwan
Main Road, Nagpur.

... APPLICANTS

V E R S U S

1. The State of Maharashtra,
through its Police Station Officer,
Police Station Nandanwan,
Nagpur.

2. Vishakha w/o Jitendra Duragkar,
Aged about : 28 years,
Occupation : Household,
Resident of C/o Shri Narendra
Randive, Plot No.9, Vinoba
Nagar, Dighori, Umred Road,
Nagpur.

... **RESPONDENTS**

Shri P. A. Abhyankar, Advocate for applicants.

Shri A. V. Palshikar, Additional Public Prosecutor for respondent
No.1.

Shri Sandeep Kadu, Advocate h/f Shri R. M. Tahaliyani, Advocate
for respondent No.2.

CORAM:- R. K. DESHPANDE &
ARUN D. UPADHYE, JJ.
DATED : 03/07/2018.

JUDGMENT : (PER ARUN D. UPADHYE, J.)

1. Rule made returnable forthwith. Heard finally with
the consent of the learned counsel for the parties.

2. The applicant Nos.1 to 3 have filed this application
under Section 482 of the Code of Criminal Procedure for quashing
the proceeding of Regular Criminal Case No.3028/2015 pending
before the J.M.F.C. Court No.1, Nagpur. The applicants have
contended that respondent No.2 – Vishakha Duragkar is wife of
applicant No.1. Applicant Nos.2 and 3 are parents of applicant
No.1. It is submitted that the marriage of applicant No.1 was

performed with respondent No.2 on 13/02/2013 and there was matrimonial dispute between them and therefore, she lodged FIR against the applicants on 06/04/2015 for the offence punishable under Section 498-A r/w Section 34 of I.P.C. After completion of the investigation, police submitted charge sheet before the J.M.F.C. Court No.1, Nagpur and Regular Criminal Case No.3028/2015 is pending.

3. We have heard Shri Abhyankar, learned counsel for applicants, Shri Palshikar, learned A.P.P. for respondent No.1-State and Shri Sandeep Kadu, learned counsel h/f Shri R.M.Tahaliyani, learned counsel for respondent No.2.

4. Shri Abhankar, learned counsel for the applicants has submitted that the matter is amicably settled between the parties. The applicant No.1 and respondent No.2 have obtained mutual divorce from Family Court, Nagpur and compromise decree dated 22/05/2018 is placed on record. The application therefore, be allowed.

5. Shri Kadu, learned counsel for respondent No.2 has submitted that the application may be allowed and he has no objection for the same.

6. Considering the submissions of respective sides and after perusal of the documents placed on record, we are of the considered view that the continuation of proceeding will cause prejudice to the applicants. The parties have settled the matter amicably. The applicant No.1 and respondent No.2 have obtained mutual decree of divorce which is placed on record and marked as "X" for identification. The applicant No.1 and respondent No.2 were present in the Court and stated that they have compromised the matter and application may be allowed.

7. Considering the above facts and circumstances of the case, we are of the view that the parties have arrived at compromise and resolved their controversy. It is, therefore, necessary to quash and set aside the F.I.R. as well as charge sheet filed against the applicants. The Hon'ble Apex Court in case, reported in **(2014) 6 SCC 466 (Narinder Singh and others Vrs. State of Punjab and another)** has given detail guidelines for quashing of FIR and the charge sheet. The offence charged against the accused is punishable under Section 498-A r/w Section 34 of I.P.C. There is no possibility of conviction in this matter. The continuation of criminal case would put the accused to great prejudice and injustice would cause to them, if proceedings are not

quashed. The application filed by the applicants deserves to be allowed. Hence, we pass the following order.

ORDER

I. The application filed under Section 482 of Code of Criminal Procedure is allowed.

II. The Criminal Case No.3028/2015 pending before the J.M.F.C. Court No.1, Nagpur for the offence punishable under Section 498-A r/w Section 34 of I.P.C. is hereby quashed and set aside.

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)