

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

CRIMINAL APPLICATION [APL] NO.622 OF 2016

[Yogesh s/o Ambir Ramteke and others .vs. The State of Maharashtra and one]

WITH

CRIMINAL APPLICATION [APL] NO.604 OF 2016

[Anand s/o Bhaskarrao Burhade .vs. The State of Maharashtra and one]

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

Court's or Judge's orders

Shri R.M. Patwardhan, counsel for the applicants,
Shri K.L. Dharmadhikari, APP for non-applicant no.1-State.
Shri Y.S. Gorle, counsel a/w Shri S.A. Bramhe, counsel for
non-applicant no.2.

.....

CORAM : SMT. VASANTI A NAIK AND

MRS. SWAPNA JOSHI, JJ.

DATED : MARCH 19, 2018.

The applicants in Criminal Application No.622/2016 seek the quashing and setting aside of the first information report registered against them for the offences punishable under sections 498-A, 354 r/w 34 of the Penal Code. Similarly, the applicant in Criminal Application No.604/2016 seeks the quashing and setting aside of the first information report registered against him for the offences punishable under sections 498-A, 354 r/w 34 of the Penal Code.

The applicants in Criminal Application Nos.622/2016 are the in-laws of the non-applicant no.2-Sau.Pooja. The applicant no.1-Yogesh was married to the non-applicant no.2 on 26.5.2010 according to the customs prevailing in their community. The applicant nos.2 and 3 are the mother-in-law and the father-in-law of the non-applicant no.2. The applicant no.1 and the non-applicant no.2 resided together for six years in the matrimonial home till the non-applicant no.2 left the company of the applicant no.1 on 17.4.2016. After leaving the matrimonial home, the non-applicant no.2 lodged a report in Police Station,

Ajni on 1.7.2016 levelling certain allegations against the applicants in Criminal Application No.622/2016. The applicant in Criminal Application No.604/2016 is the friend of the applicant no.1 in Criminal Application No.622/2016 and in the report lodged by the non-applicant no.2, she has levelled certain allegations against the applicant in Criminal Application No.604/2016 as he is her husband's friend. On the basis of the report lodged by the non-applicant no.2, the first information report was registered against the applicants in both the criminal applications for the offences punishable under Sections 498-A, 354 r/w 34 of the Penal Code. The applicants in both the criminal applications have sought for the quashing and setting of the first information report registered against them.

It is the case of the applicants that the non-applicant no.2 has started residing with her husband-the applicant no.1 in Criminal Application No.622/2016 for quite sometime and in this changed scenario, the first information report registered against the applicants in both the criminal applications needs to be quashed and set aside. The applicants in both the criminal applications are personally present in the court today. They are identified by their counsel. The non-applicant no.2 is also present in the court today. She is also identified by her counsel. The non-applicant no.2 states that she has started residing with her husband and her in-laws since January-2017. It is stated by her that she had resided with her husband and in-laws for nearly six years and due to some differences between her and her in-laws, she had left the matrimonial home and had lodged the report against the applicants. It is stated that since she is now residing in the matrimonial home along with the applicants in Criminal Application No.622/2016, the first information report registered against the applicants needs to be quashed and set aside,

specially when she has a small son to look after.

On hearing the learned counsel for the parties and on talking to the non-applicant no.2 for sometime, it appears that the first information report registered against the applicants need to be quashed and set aside. It appears that the non-applicant no.2 was residing with her in-laws for nearly six years when she left the matrimonial home. After leaving the matrimonial home, it appears that she has lodged the report/complaint against the applicants. The non-applicant no.2 has started residing in her matrimonial home since January-2017 and in this background if the first information report registered against the applicants is not quashed and set aside it would result in the abuse of the process of the court. Since the non-applicant no.2 does not wish to pursue the matter against the applicants, it is unlikely that the prosecution would result in the conviction of the applicants. Further, we find that though the first information report could not have been registered against the applicant in Criminal Application No.604/2016, the same is wrongfully registered against him. In the circumstances of the case, by relying on the judgment of the Hon'ble Supreme Court reported in **2014 (6) SCC 466 (Narinder Singh and others .vs. State of Panjab and others)**, it would be necessary to quash and set aside the first information report registered against the applicants.

Hence, for the reasons aforesaid, both the criminal applications are allowed. The First Information Report registered against the applicants for the offences punishable under Sections 498-A, 354 r/w 34 of the Penal Code and the proceedings arising therefrom are hereby quashed and set aside. Order accordingly.

JUDGE

JUDGE