

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

CRIMINAL APPLICATION NO.234 OF 2019

1. Mohd. Azharuddin Abdul Matin Farooqui
Age 30 years, Occu. Private service,
R/o Ahbab Colony, Katkatgache,
Aurangabad
 2. Abdul Matin Mohd. Samiuddin Farooqui,
Age 65 years, Occu. Nil,
R/o Near Macca Masjid, Kiradpura,
Galli No.6, Aurangabad
 3. Nigar Sultana w/o Abdul Matin,
Age 60 years, Occu. Household,
R/o Near Macca Masjid, Kiradpura,
Galli No.6, Aurangabad
 4. Mohd. Mazharuddin @ Mohd. Mardin s/o
Abdul Matin, Age 25 years,
Occu. Carpenter, R/o Near Macca Masjid,
Kiradpura, Galli No.6, Aurangabad
 5. Ruksar Begum w/o Azim Shaikh,
Age 25 years, Occu. Household,
R/o Green Park, Opp. Niwant Hotel,
Jalna.
 6. Shahzad Khan s/o Rahimdad Khan,
Age 45 years, Occu. Teacher,
R/o Triveni Nagar, Times Colony,
Aurangabad
 7. Ayesha w/o Saijad Khan,
Age 38 years, Occu. Household,
R/o Triveni Nagar, Times Colony,
Aurangabad
- ...APPLICANTS**

VERSUS

1. The State of Maharashtra
Through Police Station, Jinsi,

Aurangabad City, Taluka and
District Aurangabad
(Copy to be served on Public
Prosecutor, High Court of
Bombay, Bench at Aurangabad)

2. Humera Begum w/o Mohd. Azaruddin
Farooqui, Age 24 years,
Occu. Household, R/o C/o Dr. Hidayat
Hasan Khan, Besides Noor Masjid,
Ambar Gas Agency,
Priyadarshani Colony, Padegaon,
Aurangabad

...**RESPONDENTS**

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Mr. Sohel M. Siddiqui, Advocate for applicants
Mr. S.B. Yawalkar, A.P.P. for respondent No.1.
Mr. Moinpasha Shaikh Farid, Advocate for respondent No.2

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**CORAM: S.S. SHINDE AND
R.G. AVACHAT, JJ.**

DATED : 18th February, 2019

ORAL JUDGMENT (PER S.S. SHINDE, J.) :

1. Rule. Rule made returnable forthwith and heard finally with the consent of learned counsel appearing for the parties.

2. This application takes exception to the F.I.R. bearing Crime No.0003/2019, registered at Jinsi Police Station, Aurangabad City, Taluka and District Aurangabad on 4.1.2019 for the offence under Sections 498-A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3. Pursuant to notices issued to the respondents, respondent No.2 has filed affidavit-in-reply. It is stated in the said affidavit-in-reply that all the matters pending between the parties i.e. applicants and respondent No.2 are compromised and accordingly, Case No.E-173/2018 is withdrawn from the Family Court, Aurangabad and PWDVA Application No.496/2017 is also withdrawn from the Court of 5th Judicial Magistrate, First Class, Aurangabad on 5.2.2019. It is further stated that, the applicant has paid Rs. 4,25,000/- to respondent No.2 as one time maintenance. There are further details stated in the affidavit-in-reply. It is stated that, the respondent No.2 does not want to proceed with the complaint bearing Crime No.0003/2019, registered at Jinsi Police Station, Aurangabad under Sections 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

4. We have made specific query to respondent No.2, who is present in the Court, whether the settlement between the applicants and respondent No.2 is her voluntary act or otherwise. She stated that, it is her voluntary act to enter into such compromise and in view of such compromise, she does not wish to proceed further in Crime No.0003/2019.

5. Since the parties have compromised the dispute and respondent No.2 does not wish to pursue the allegations in the afore mentioned crime, further continuation of the investigation or proceedings based upon such crime would be exercise in futility. The respondent No.2 is not going to support the allegations in the F.I.R. and, therefore, the chances of conviction of the applicants would be bleak. In that view of the matter, keeping in view the exposition of law by the Supreme Court in the case of **Gian Singh Vs. State of Punjab & anr.** reported in **[(2012) 10 SCC 303]** that, in order to secure the ends of justice and to prevent the abuse of process of the Court, the amicable settlement can be accepted even though one of the offence i.e. Section 498-A of the Indian Penal Code is cognizable. In that view of the matter, we are inclined to allow this application. Accordingly, the application is allowed. Rule is made absolute in terms of prayer clause (B). Criminal Application stands disposed of accordingly.

6. Parties to act upon authenticated copy of this order.

R.G. AVACHAT
JUDGE

S.S. SHINDE
JUDGE

fmp/