

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1408 OF 2018

Shri Naresh Govind Vaze

Age 55 Years Permanent Residential Address

Matruchhaya Building Room No. 2, Property No. 81/1,

Behind Vedant Tower Tulinj Nallasopara (E)

401209

...Applicant

Versus

The State of Maharashtra

Through Nallasopara Police Station

Dist. Palghar, Maharashtra

...Respondent

Mr. Naresh Govind Vaze Applicant in person.

Mrs. Vasundara Naresh Vaze present in Court.

Mrs. G.P. Mulekar, APP for Respondent – State.

CORAM : S.S. SHINDE, J.
RESERVED ON : 27th AUGUST 2019
PRONOUNCED ON : 03rd SEPTEMBER 2019

JUDGMENT

1. This application is filed with following prayers:

A) The Record and Proceedings of Criminal Case No. 999 of 2008 and R.C.C. No. 923 of 2008 pending before J.M.F.C. Court Vasai and Criminal Revision proceedings before Addl. Sessions Judge, Kolhapur with Application No. 450 of 2008 be called before this Hon'ble Court and the Trial be stayed till final hearing and disposal of this application.

B) The order passed by Ld. Judicial Magistrate First Class Vasai Mr. R.V. Kadam rejecting discharge application dated 20.04.2018 in R.C.C. No. 999 of 2008 be quash/set aside.

C) The applicant be discharged from the all the offences alleged vide C.R. No. 205 of 2008 of Nallasopara Police Station and the R.C.C. No. 999 of 2008 of Vasai be disposed off accordingly.

2. When application was taken up for hearing on 19th August, 2019, this Court passed the following order:-

1. *Heard the applicant who appears in person. He submits that, after registration of FIR and filing the charge-sheet, his wife Vasundhara Vaze has returned to the matrimonial home and happily cohabiting with the applicant since October 2009. He assures this Court that his wife will appear before this Court and file affidavit on 27th August, 2019.*

2. *List on 27th August, 2019.*

3. On 27th August, 2019 Sow. Vasundharaa Naresh Vaze wife of the Applicant tendered her affidavit through Applicant across the bar. Same is taken on record. The contents of the said affidavit reads

thus:-

Affidavit of Sou. Vasundhara Naresh Vaze

1) I, Sou. Vasundhara Naresh Vaze Age 52 Years, Occupation, housewife, residing at Room No. 2, Matruchhaya Building, Property No. 81/1 behind Vedant Tower, Tulinj, Nallasopara East, since June 2006 with my husband Shri Naresh Govind Vaze and our daughter Shalaka Naresh Vaze.

2) I say that I got married with Shri Naresh Govind Vaze on 16th February 1997 and was co habiting with him at different places. Shalaka Born on 18th April 1998 out of said wedlock. Since 11th May 2008 till 8th October, 2009, I was not residing at the above Address due to family dispute between myself and my husband Shri. Naresh Govind Vaze. I say that after solving our dispute between ourselves, I am living with my husband and daughter on the above address since 13th October 2009 till now.

3) Without referring to the contents in FIR and statement (application) to J.M.F.C. Kolhapur for any purpose, I say that I do not want to proceed with the case. I say that the family dispute between myself and my husband has been amicably solved. I therefore say that

charge should not be framed against my husband.

4) I further say that by proceeding with the case, nothing can be achieved in the Interest of the family. Hence I request this Hon'ble Court to kindly close the case.

5) I Respectfully say that there is no coercion or compulsion from my husband to file the affidavit. However, my husband has informed me that the Hon'ble Court has given directions to file affidavit hence this Affidavit.

6) I say that whatever mentioned in paragraph 1 to 5 is true and correct to my personal knowledge and belief and I believe the same to be true and correct. I have put my signatures hereunder admitting the same. Solemnly declared and Affirmed at Mumbai. This 27th Day of August 2019.

Sd/-

Sou, Vasundhara Naresh Vaze

4. The said affidavit is affirmed by the Sou. Vasundhara Naresh Vaze. On specific query to her, whether it is her voluntary act to affirm the said affidavit ? She replied that, she has gone through the

contents of the affidavit and understood the same and then she affirmed the said affidavit.

5. It appears from the perusal of the contents of the application that, pursuant to the complaint filed by the wife Sou. Vasundhara Naresh Vaze of the applicant the Police investigated into the allegations in the FIR and filed the charge-sheet. The applicant did filed application for discharge on 25th May 2017 before the 5th Joint Civil Judge Junior Division and Judicial Magistrate (F.C.) Vasai, in Criminal Case No. 999 of 2008. It further appears from the perusal of the averments in the applicant that, pending proceedings did not proceed further and the cases against the applicant's are yet not decided.

6. Keeping in view the affidavit filed by the wife Sou. Vasundhara Naresh Vaze of the applicant, no fruitful purpose will be served by continuing the proceedings in Criminal Case No. 999 of 2008 and R.C.C. No. 923 of 2008 pending before the 5th Joint Civil Judge Junior Division and Judicial Magistrate (F.C.) Vasai and Criminal Revision Application No. 129 of 2008 pending before the Addl. Sessions Judge, Kolhapur. In that view of the matter and keeping

in view the affidavit filed by the aggrieved person i.e. wife Sou. Vasundhara Naresh Vaze of the Applicant, the proceedings of Criminal Case No. 999 of 2008 and R.C.C. No. 923 of 2008 pending before the 5th Joint Civil Judge Junior Division and Judicial Magistrate (F.C.) Vasai and Criminal Revision Application No. 129 of 2008 pending before the Addl. Sessions Judge, Kolhapur shall be treated as closed. The said Courts shall not proceed with the said proceedings and treat the said proceedings are as closed. In the light of the above Criminal Application stands disposed of.

(S.S. SHINDE, J.)