

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

CRIMINAL APPLICATION (APL) NO. 432 OF 2019.

(Dr. Abdul Jameer S/o Abdul Kasir, Nagpur & Ors. Vs. State of Maharashtra, thr. PSO, Ashti, Tahsil Ashti, District Wardha & Anr.)

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

Court's or Judge's orders.

Mr. K.J.Topale, Advocate for applicants.
Mr. S.D.Sirpurkar, APP for non-applicant no.1.
Mr. J.A.Malnas h/f Mr. Irfan Geongade, Advocate for
non-applicant no.2.

**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
JULY 18, 2019.**

This application is for quashing of First Information Report No.52/2018 registered by Police Station Ashti, District Wardha for the offence punishable under Section 498-A r/w. Section 34 of the Indian Penal Code.

Applicant no.1, husband, is present.
Applicant nos. 2 to 7 are his relatives.

Non-applicant no.2, the complainant - wife of applicant no.1 is present and submits that she do not want to prosecute her report.

Learned counsel for the applicants refers to the documents filed along with the application and from one of the documents which is a proceeding initiated by the complainant – wife before the trial Court under the Protection of Women from Domestic Violence Act, 2005, appears to be settled, on the basis

of settlement arrived at between applicant no.1 and non-applicant no.2 who are stated to be residing separately since divorced from July, 2017. Non-applicant no.2 also accepts that she has received one time settlement amount from applicant no.1 to the extent of Rs.7,50,000/- (Rs. Seven lakh fifty thousand only).

Having considering the fact that non-applicant no.2 does not want to prosecute her report and in view of the law laid down in the case of **B.S.Joshi and Others Vs. State of Haryana and another** reported in **(2003) 4 SCC 675**, wherein it is held that where parties have settled their matrimonial dispute, this Court should exercise power under Section 482 of the Code of Criminal Procedure to given an end to Criminal proceedings, application is liable to be allowed, as we find that continuation of Criminal Proceedings would unnecessarily create problem in maintaining harmony in their family lives. In para no.14 and 15 of the case of **B.S.Joshi** (Supra), it is observed that :

"14. There is no doubt that the object of introducing Chapter XX-A containing Section 498-A in the Indian Penal Code was to prevent torture to a woman by her husband or by relatives of her husband. Section 498-A was added with a view to punishing a husband and his relatives who harass or torture the wife of coerce her or her relatives to satisfy unlawful demands of dowry. The hypertechnical view would be counterproductive and

would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of the Indian Penal Code.

15. In view of the above discussion, we hold that the High Court in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 of the Code does not limit or affect the powers under Section 482 of the Code."

In view of the settled legal position, we are inclined to pass the following order:

ORDER

Criminal Application is allowed. First Information Report No.52/2018 dated 06/03/2018, registered at Police Station, Ashti, District Wardha, is quashed and set-aside, subject to applicant no.1 and non-applicant no.2 paying cost of Rs.15,000/- (Rs. Fifteen thousand only) each with the Registry of this Court. On deposit of the said amount, Registry of this Court shall transfer the same to the Panchawati Vrudhashram, Umred Road, Nagpur. The amount of cost be deposited within four weeks from today.

JUDGE

JUDGE