

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

CRIMINAL APPLICATION (APL) NO. 694 OF 2018.

(Vishal Shivcharan Bhambulkar, Nagpur & Ors. Vs. State of Maharashtra, thr.PSO, Hud)

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

Court's or Judge's orders.

**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
JULY 19, 2019.**

This application is for quashment of criminal proceedings arising out of First Information Report No.355/2015 registered by Police Station Hudkeshwar, District Nagpur for the offence punishable under Sections 498-A, 504 and 506 r/w. Section 34 of the Indian Penal Code.

Applicant no.1 is the husband of non-applicant no.2 and other applicants are the relatives of applicant no.1.

We have heard Ms. Rani Nitnaware h/f. Mr. Y.B.Mandpe, learned counsel for applicants, Mr. S.A.Ashirgade, learned APP for non-applicant no.1/State and Ms. V.M.Choubey, learned counsel for non-applicant no.2. We have also heard applicant no.1 and non-applicant no.2 present in-person before the Court.

The applicant no.1 and non-applicant no.2 jointly submit that they have amicably settled their

dispute before the Family Court, Nagpur as per the terms of settlement dated 13/07/2018. Accordingly, they have decided to obtain divorce by mutual consent. Non-applicant no.2 has received one time settlement amount to the extent of Rs.7,50,000/- (Rs. Seven lakh fifty thousand only) from applicant no.1 towards maintenance for herself and her daughter – Gunjan. Applicant no.1 in addition to the terms of settlement undertook before the learned Family Court, Nagpur to provide non-applicant no.2 his caste validity certificate to enable her to obtain caste validity certificate for her daughter.

As the parties have already decided to separate their marital cord by way of an amicable settlement, no purpose would be served in keeping the proceedings pending before the learned Judicial Magistrate First Class, Corporation Court No.2, Nagpur.

Given the aforesaid facts and circumstances of the case so also considering the law laid down by the Hon'ble Supreme Court 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 give 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 or 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. The criminal proceedings arising out of First Information Report No.355/2015 dated 12/08/2015, registered

at Police Station Hudkeshwar, District Nagpur is quashed and set-aside, subject to applicant no.1 and non-applicant no.2 paying cost of Rs.10,000/- (Rs. Ten 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 two weeks from today.

JUDGE

JUDGE

Sumit