

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

CRIMINAL APPLICATION (APL) NO. 764 OF 2018.

(Milind Sharad Dudhe, Pune & Ors. Vs. State of Maharashtra, thr. PSO Badnera, District Amravati & Anr.)

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

Court's or Judge's orders.

Shri A.A.Dhawas, Advocate for applicants.
Ms. M.Deshmukh, APP for non-applicant no.1/State.
Shri Amit Band, Advocate for non-applicant no.2.

**CORAM : P.N. DESHMUKH &
PUSHPA V. GANEDIWALA, JJ.
AUGUST 02, 2019.**

This application is for quashment of First Information Report No.129/2018 dated 15/03/2018 registered by Police Station Badnera, District Amravati for the offence punishable under Sections 498-A and 504 read with Section 34 of the Indian Penal Code.

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

We have heard Shri A.A.Dhawas, learned Advocate for applicants, Ms. M.Deshmukh, learned APP for non-applicant no.1/State and Shri Amit Band, learned Advocate 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, Amravati as per the terms of settlement dated 19/01/2019. 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.5,00,000/- (Rs. Five Lakh) from applicant no.1 towards maintenance.

As the parties have already decided to separate their marital cord by way of an amicable settlement, we are satisfied that no purpose would be served in prosecuting the applicant no.1 in the aforesaid crime, which is not of a serious nature.

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 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 in terms of prayer clause (A), subject to applicants and respondent no.2 paying cost of Rs.30,000/- with the Registry of this Court within four weeks from today. Out of said amount, Rs.20,000/- shall be paid by applicants jointly and severally and balance of Rs.10,000/- shall be paid by respondent no.2. On depositing the same, amount of cost shall be paid to

to the office of Vidarbha Lady Lawyers' Bar Association, Nagpur.

Sumit

JUDGE

JUDGE