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

**CRIMINAL REVISION APPLICATION NO.41 OF 2012
WITH
INTERIM APPLICATION NO.1 OF 2020**

Shridhar Govind Hatim
Age – 46 yrs., Occ. - Service,
R/o. Shivshankar Society,
2nd Floor, Gaondevi Road,
Kalwa, Thane.

... Applicant

Versus

The State of Maharashtra
Through Kalwa Police Station.

... Respondent

Mr. Sudhir Hardikar a/w Mr. Prakash B. Kadam for the Applicant.
Mr. Vijaykumar Rajendra Garad for the Intervenor.
Mr. P.H. Gaikwad – Patil, APP for the Respondent – State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 14th FEBRUARY 2020.

ORAL JUDGMENT :

1 The applicant herein is convicted by a judgment and order passed by the Judicial Magistrate, First Class, Thane in Regular Criminal Case No.527 of 2002 for an offence punishable under section 498A of the Indian Penal Code and sentencing him to suffer R.I. for six months and fine of Rs.2,000/- in default to suffer S.I. for two months. Being aggrieved by the said judgment and order, the applicant had preferred Criminal Appeal No.95 of 2009 before the Sessions Judge, Thane. The learned Sessions Judge, Thane by a judgment and order dated 7th February 2012 have been

pleased to dismiss the appeal and has upheld the sentence passed by the Judicial Magistrate, First Class, Thane.

2 The facts of the case are as follows :-

That the marriage of the applicant was solemnized with the respondent on 28th February 1994. The couple is blessed with two daughters. The couple had purchased a block at Kalwa in December 1998 and they were residing therein. On 13th June 2002, the Respondent No.2 had lodged FIR at Kalwa Police Station against the applicant for harassment. The case was registered as Regular Criminal Case No.527 of 2002. The learned trial Court had relied upon the letter from the Medical Officer indicating that on 18th September 2002 at about 12.30 am, she was examined for alleged history of assault by the husband in the evening. The case paper to that effect was filed at Exh.38. It is contended that the same cannot be treated as a medico-legal certificate. This has to be read in consonance with the fact that the applicant is acquitted of the offence punishable under section 325 of the Indian Penal Code. It appears that there are basic inconsistencies in the evidence of the complainant and the other witnesses were not eye-witnesses to the said incident.

3 There was a matrimonial dispute between the parties before the Joint Civil Judge, Senior Division, Thane which was registered as

Marriage Petition No.201 of 2002. During the pendency of the litigation, the applicant has settled the matter with his wife named Shraddha Hatim who is now aged about 52 years and in view of this, Shraddha Shridhar Hatim has filed Intervention Application No.1 of 2020 seeking relief of intervention in Criminal Revision Application No.41 of 2012. The said application deserves to be allowed in the interest of justice and is accordingly allowed. Parties have come to terms and filed an affidavit/ consent terms before this Court in Writ Petition No.1470 of 2017 and it was agreed between the parties that they are withdrawing all allegations made against each other. They have mutually decided to dissolve the marriage in the interest of both the parties from the date of decree in Marriage Petition No.201 of 2002. In view of the same, intervenor has withdrawn all allegations against the applicant including that of cruelty on the basis of which she had prosecuted the applicant for offence punishable under section 498A of the Indian Penal Code. The terms of settlement have been drawn between the parties by consent and they have undertaken to abide by the terms and conditions incorporated therein. The affidavit is filed by both the parties on 25th October 2018. The affidavit of the intervenor along with consent terms filed in Writ Petition No.1470 of 2017 is taken on record and marked as article 'X' for the purpose of identification.

4 In view of the above observations, the applicant herein deserves to be acquitted of the offence punishable under section 498A of the Indian Penal Code which is imposed upon him by the Judicial Magistrate, First Class, Thane and confirmed by the Sessions Court, Thane. Hence, the following order is passed :-

ORDER

- (i) Criminal Revision Application is allowed;
- (ii) The judgment and order passed by the Judicial Magistrate, First Class, Thane in Regular Criminal Case No.527 of 2002 thereby convicting the appellant for the offence punishable under section 498A of the Indian Penal Code and confirmed by the learned Sessions Judge, Thane in Criminal Appeal No.95 of 2009 stand quashed and set aside;
- (ii) Applicant is acquitted of the offence punishable under section 498A of the Indian Penal Code;
- (iii) Bail bonds of the applicant stands cancelled;
- (iv) Fine, if paid, be refunded;
- (v) Revision application is allowed and disposed of in above terms. Intervention application is also disposed of accordingly.

(SMT. SADHANA S. JADHAV, J.)