

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

940 CRIMINAL APPLICATION NO.1296 OF 2021

Divyani w/o Darshan Pagariya,
Age 26 years, Occu. Household,
R/o C/o Mangalchand Dalichand
Kankariya,
Durga Chowk, Chahardi,
Taluka Chopda, District Jalgaon

..Applicant

VERSUS

The State of Maharashtra,
through Dharangaon Police Station,
Taluka Dharangaon, Dist. Jalgaon and anr.

..Respondents

Mr Bhagarv Kulkarni, Advocate h/f Mr K.C. Sant, Advocate for applicant
Mr Anand S. Shinde, A.P.P. for respondent no.1
Mr N.E. Deshmukh, Advocate for respondent no.2

-AND-

CRIMINAL APPLICATION NO. 142 OF 2021

1. Darshanji s/o Sunilchand Pagariya
Age 27 years, Occu.Business
2. Aashabai w/o Sunilchand Pagariya,
Age 48 years, Occu. Household
3. Sunilchand s/o Punamchand Pagariya,
Age 52 years, Occu. Business
4. Damini d/o Sunilchand Pagariya
Age 25 years, Occu. Household

Applicants No.1 to 4
R/o Agnihotri Galli, Dharangaon,
Taluka Dharangaon,
District Jalgaon

..Applicants

VERSUS

The State of Maharashtra,
through Police Inspector,
Chopda City Police Station,
Chopda, Taluka Chopda,
District Jalgaon and anr.

..Respondents

Mr N.E. Deshmukh, Advocate for applicants
Mr A.S. Shinde, A.P.P. for respondent no.1
Mr Bhagarv Kulkarni, Advocate h/f Mr K.C. Sant, Advocate for respondent no.2

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 10th August 2021

PER COURT :

1. Heard finally with consent at admission stage.
2. Criminal Application No. 1296 of 2021 pertains to quashing of the criminal proceeding of Sessions Case No.17 of 2018 pending before the Sessions Judge, Jalgaon on the basis of the complaint lodged by respondent no.2 – Darshan Sunil Pagariya vide Crime No.91/2017 registered at Dharangaon Police Station, for the offences punishable under Sections 307 and 325 of the Indian Penal Code against the applicant.

Criminal Application No.142/2021 pertains to quashing of the F.I.R. bearing No. 127/21, registered at Chopda City Police Station, Chopda, Taluka Chopda, District Jalgaon, for the offences punishable under Sections 498-A, 323, 504, 506 read with Sec.34 of the Indian Penal Code on the basis of the complaint lodged by respondent no.2 – wife.

3. The parties have arrived at amicable settlement and thus, seeking quashing of both the F.I.R.s in terms of the settlement arrived at between them.
4. The learned Counsel appearing for the applicants in both the matters submit that the applicant – wife and the respondent – husband have decided to end their marital life in terms and conditions as set out in the joint purshis

submitted by them. The learned Counsel for both the parties have brought to our notice that husband and wife have filed Hindu Marriage Petition No. 294/2019 for divorce by mutual consent under Section 13 (B) of the Hindu Marriage Act, 1955, which is pending in the Court of Civil Judge, Senior Division, Jalgaon. Further, it is agreed that the respondent – husband will pay a lumpsum alimony of Rs.5 lakh towards the future maintenance and accordingly, the applicant - wife has given up all her future claims. The applicant wife has already received Rs.2,50,000/- towards part payment of the sum agreed.

5. The learned Counsel for the applicants further submit that the parties have decided to withdraw various proceedings filed against each other including the present proceedings.

6. The learned A.P.P. submits that so far as Criminal Application No.1296 of 2021 is concerned, the applicant – wife Divyani allegedly given the blow of iron bar (Musali) on the head of respondent no.2. The learned A.P.P. submits that in case of **Narinder Singh & ors. vs. State of Punjab & and anr.**, reported in **(2014) 6 SCC 466**, the Supreme Court has observed, so far as the quashing of the proceeding on the basis of settlement for an offence punishable under Section 307 of the Indian Penal Code is concerned, it would be open for the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 of IPC. The Supreme Court has further observed that if there is strong possibility of conviction, the High Court may not accept the settlement and quash the criminal proceeding.

7. We have carefully gone through the joint purshis filed by the parties. As per the terms and conditions of the settlement, certain amount has been given to the wife towards her permanent alimony and the husband and wife have voluntarily decided to live separately. They have also filed Hindu Marriage Petition No. 294/2019 for divorce by mutual consent under Section 13 (B) of the Hindu Marriage Act, 1955.

8. In case of **Gian Singh Vs. State of Punjab** reported in **(2012) 10 SCC 303**, in paragraph 48 of the judgment, the Supreme Court has framed the guidelines for quashing of the proceeding on the basis of settlement. Clause (a) of the guidelines which is relevant for the present case is reproduced hereinbelow :

“(a) Cases arising from the matrimonial discord, even if other offences are introduced for aggravation of the case.”

9. So far as the ratio laid down by the Supreme Court in a case of **Narinder Singh and ors. Vs. State of Punjab and anr.** (cited supra) relied upon by the learned A.P.P. for the State, we have gone through the police papers, particularly the medico-legal certificate. It appears that respondent no.2 – Darshan Sunil Pagariya (husband) in Criminal Application no.1296 of 2021 has sustained the simple injury. Both the parties have decided to withdraw the criminal proceedings initiated against each other. In view of the same there is no possibility of conviction. On the other hand, since the parties have arrived at amicable settlement and decided to get separated permanently, keeping those proceeding pending would nothing but the abuse of Court process.

10. In view of the above and in view of the ratio laid down by the Supreme Court in the above cited two cases, we allow both the criminal applications.

11. Criminal Application No.1296 of 2021 (Divyani w/o Darshan Pagariya Vs. State of Maharashtra and anr.) is allowed in terms of prayer clause (A). Criminal Application No. 142 of 2021 (Darshanji s/o Sunilchand Pagariya and ors. Vs. State of Maharashtra and anr.) is allowed in terms of prayer clause (A).

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV , J.)

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