

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

CRIMINAL APPLICATION NO. 482 OF 2021

Nitin Hiralal Musale
and others

... Applicants

Versus

The State of Maharashtra
and another

... Respondents

....

Mr. A.P. Ghule Patil, Advocate for the Applicants
Mr. A.S. Shinde, A.P.P. for Respondent No.1 / State
Mr. P.B. Ghule, Advocate for Respondent No.2

....

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

DATE : 02nd AUGUST, 2021

PER COURT:-

1. Heard finally with consent at admission stage.
2. The applicants-accused persons in connection with crime no.1400/2019 registered with Topkhana Police Station, Ahmednagar for the offence under Sections 498-A, 323, 504, 506 read with 34 of the Indian Penal Code have approached this Court by filing application under Section 482 of Code of Criminal Procedure for quashing of the F.I.R. on the basis of settlement between the parties.

3. Learned counsel for the applicants submits that the parties have arrived at an amicable settlement. Applicant no.1 and respondent no.2 have filed a joint petition bearing H.M.P No.62/2021 under Section 13B of the Hindu Marriage Act for divorce by mutual consent before the Civil Judge, Senior Division, Aurangabad.

4. Learned counsel for respondent no.2-original complainant submits that respondent no.2 has filed her affidavit-in-reply. Respondent no.2 do not want to proceed further with the criminal proceedings against applicant no.1 and his family. They have amicably settled the dispute and filed H.M.P No.62/2021 for divorce by mutual consent under Section 13B of the Hindu Marriage Act, which is pending before the Civil Judge, Senior Division, Aurangabad. They want to leave their life peacefully and separately.

5. In case of *Gian Singh Vs. State of Punjab and another* reported in **(2012) 10 SCC 303** , in para 48, the Hon'ble Supreme Court has framed guidelines for quashing of F.I.R. on the basis of settlement. Guideline (a) is relevant for the present case which is reproduced as under:

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

The Hon'ble Supreme Court further observed that, it can safely be said that there can never be any hard and fast category which can be

prescribed to enable the Court to exercise its power under Section 482 of the Cr. P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

6. In view of the aforesaid guideline (a) and considering the facts of the present case and since the parties have arrived at an amicable settlement and decided to live their life peacefully and separately, we are inclined to allow this application. Hence the following order:

ORDER

- (i) The criminal application is allowed in terms of prayer clause 'B'.
- (ii) The criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane