

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 697 OF 2021

1. Avdhut S/o. Shamrao Bagal,
Age : 34 years, Occupation : Labour
2. Shamrao S/o. Irbaji Bagal,
Age : 61 years, Occupation : Agri,
3. Sow. Gayabai W/o. Shamrao Bagal,
Age : 56 years, Occupation : Household,

All R/o. Lon (Khurd),
Tq. Ardhapur, Dist. Nanded.

...Petitioners

Versus

1. The State of Maharashtra,
Through Police Station, Ardhapur,
Tq. Ardhapur, Dist. Nanded.
2. Sunita Avdhut Bagal,
Age : 36 years, Occu: Household,
R/o. C/o. Raosaheb Madhavrao Adhav,
Ganesh Colony, Near Mhasoba Temple,
Sillod, Tq. Sillod, Dist. Aurangabad.

...Respondents

Mr Shivraj B. Kadu, Advocate for Petitioners
Mrs Preeti V. Diggikar, A.P.P. for Respondent No.1-State
Mr Rupesh C. Bora, Advocate holding for
Mr S.C. Zalte, Advocate for Respondent No. 2

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

DATE : 25th AUGUST, 2021

ORAL JUDGMENT : (PER SHRIKANT D. KULKARNI, J.)

1. Rule. Rule made returnable forthwith.
2. Heard finally with consent of both sides at admission stage.

3. The petitioners are seeking relief of quashing of proceedings of Criminal Appeal No. 68/2014 pending before the Sessions Court at Nanded arising out of order of conviction passed in Regular Criminal Case No. 8/2012 by the Judicial Magistrate First Class, Ardhapur, Dist. Nanded for the offence punishable under section 498-A read with section 34 of the Indian Penal Code on account of settlement between the parties post-conviction by taking aid of Article 226 of the Constitution of India and Sec. 482 of Cr.P.C.

4. Heard Mr Shivraj Kadu, learned counsel for the petitioners, Mrs Preeti V. Diggikar, learned A.P.P. for the State/Respondent No.1 and Mr Rupesh C. Bora, learned counsel holding for Mr S.C. Zalte, learned counsel for respondent No.2.

5. Mr Kadu, learned counsel for the petitioners submitted that the learned Judicial Magistrate First Class, Ardhapur, Dist. Nanded was pleased to convict the petitioners for the offence punishable under section 498-A read with section 34 of the Indian Penal Code.

6. Being aggrieved by the impugned Judgment and order of conviction rendered by the Judicial Magistrate First Class, Ardhapur, the petitioners have preferred Criminal Appeal No. 68/2014 before the Sessions Court at Nanded. During the pendency of said criminal appeal, parties have arrived at amicable settlement. They have filed joint compromise deed signed by both the sides and their advocates. He submitted that due to intervention of family members of both the sides, petitioner No.1 and respondent No. 2

have settled their differences and both of them are now residing together. They have very good relations. It is necessary to quash the proceedings of criminal appeal as well as proceedings of Regular Criminal Case No. 8/2012 wherein petitioners came to be convicted.

7. Mr Rupesh Bora, learned counsel for respondent No. 2 made similar submissions.

8. In view of the compromise between the parties after conviction under section 498-A read with section 34 of the Indian Penal Code, appeal proceedings pending on the file of Sessions Court is sought to be quashed.

9. The question of setting aside of conviction due to compromise post-conviction and permission thereof by invoking inherent powers under section 482 of Cr.P.C. is no more *res integra* in view of the Full Bench decision of this Court in the case of **Maya Sanjay Khandare and Anr. Vs. State of Maharashtra reported in 2021 (1) Mh.L.J. 613**. The Full Bench of this Court has held in para No. 3 while answering Question (A) that " it is only in rarest of rare cases, the court may quash the criminal proceedings post-conviction for a non-compoundable offence on settlement between the convict and the informant/complainant where a jurisdictional issue going to the root of the matter is raised for challenging the conviction or in matrimonial disputes where the parties have agreed to settle their differences, jurisdiction under section 482 of the Code could be exercised. Such exercise of jurisdiction should be limited to the rarest of

rare cases when found necessary to prevent the abuse of the process of the court or to secure the ends of justice.”

10. Having regard to the legal position made clear by the Full Bench of this Court in case of ***Maya Sanjay Khandare Vs. State of Maharashtra (supra)*** and looking to the fact that the parties are now residing together, it is necessary to quash the proceedings to meet the ends of justice. It would be proper and just to close the chapter in the background of compromise and particularly, when both of them are residing together.

11. In view of the above, we are convinced to pass the following order :-

ORDER

- (I) The criminal writ petition stands allowed in terms of prayer clause (B) and (C).
- (II) Rule is made absolute in above terms.
- (III) The Criminal Writ Petition is disposed of accordingly.

[SHRIKANT D. KULKARNI, J.]

[V.K. JADHAV, J.]

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