

(1)

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

29 CRIMINAL APPLICATION NO.1908 OF 2019

NITIN S/O. RAMESH AHIRE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

...

Mr C. V. Bhadane, Advocate for applicants;
Mr S. D. Ghayal, A.P.P. for respondent No.1/State;
Mr U. A. Khekale, Advocate for respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
B. U. DEBADWAR, JJ.**

DATE : 7th June, 2021

PER COURT:

1. The applicants before us are accused persons in First Information Report bearing C.R.No.120/2019, registered by the informant-respondent No.2 herein with Shirpur City Police Station, Tq. Shirpur, Dist. Dhule for offences punishable under Sections 498A, 406, 452, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

2. Respondent No.2 herein is the wife of applicant No.1. They have a biological daughter pursuant to their marriage solemnized on

(2)

27/05/2015. After a marital discord broke out between the husband and the wife, the impugned First Information Report has been registered. Sections 452 and 498A of the Indian Penal Code, are non-compoundable offences. Offences under Sections 504, 506, 323 and 406 of the Indian Penal Code, are compoundable.

3. The couple have jointly placed before us terms of settlement dated 23/02/2021 signed by both of them and identified by their respective learned Advocates. Both have supported the terms with independent verifications dated 23/02/2021. Copies of their Aadhar Cards are also annexed to these terms (7 pages). We have taken the terms of settlement on record and marked the same as 'X' for identification.

4. Both the learned Advocates appearing on behalf of the applicants and respondent No.2 - informant submit that as the parties have resolved their differences and since they have arrived at a consensus of obtaining divorce by mutual consent under Section 13-B of the Hindu Marriage Act, the informant does not desire to prosecute the First Information Report No.120/2019. The said proceedings are

(3)

posted on 28/06/2021 before the Family Court for passing orders on granting of divorce by mutual consent.

5. We are aware that the offences punishable under Sections 452 and 498A of the Indian Penal Code are not compoundable. We have perused the First Information Report and the incident narrated for attracting Sections 452 of the Indian Penal Code, in our view, would not constitute an offence under the said provision. Nevertheless, we do not intend to deal with the said aspect and draw any conclusion since the parties desire that First Information Report be quashed in view of the terms of settlement and no purpose would be achieved by keeping the litigation alive.

6. Considering the above, this criminal application is allowed by consent in view of the consent terms 'X'. As both the parties are bound by the consent terms and have declared in unequivocal terms that they would not resile from the said terms and as the custody of the girl child has been handed over to the informant wife, this application is allowed in terms of prayer clause (BB), which reads as under :-

(4)

“By way of appropriate order or direction in the like nature, the Regular Criminal Case No.87/2020 pending in the court of Judicial Magistrate First Class, Shirpur District : Dhule arising out of charge Sheet No.53/2020 in crime No.120/2019 for offence punishable U/Section 498(A), 406, 452, 323, 504, 506, 108, 34 of Indian Penal Code, 1860 (Annexed at Exhibit - “E” -charge Sheet) may kindly be quashed and set aside.”

7. The consent terms shall be a part of this order and the certified copy of this order shall carry the consent terms ‘X’ appended thereto.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

sjk