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

902 CRIMINAL WRIT PETITION NO.923 OF 2019

**PANDHARI SHIVAJI JOGDAND AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR**

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Mr D. J. Patil, Advocate for petitioners;
Mr S. D. Ghayal, A.P.P. for respondent No.1;
Mr M. U. Shelke, Advocate for respondent No.2

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

DATE : 22nd April, 2021

PER COURT:

1. After hearing the learned Counsel for the respective sides, we had passed an order on 19/04/2021, which reads thus :-

“01. We have heard the learned Advocates for the petitioners and respondent no. 2. On instructions, the learned Advocate for the petitioners agrees to withdraw this petition to the extent of petitioner nos.1 to 4. The learned Advocate for the informant seeks time to take instructions as regards whether petitioner nos. 5, 6 and 7 could be deleted from the FIR.

02. Stand over to 22.04.2021 for passing orders.”

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2. Today, the learned Advocate for the petitioners submits on instructions that this petition can be disposed of, as withdrawn, to the extent of petitioner Nos.1 to 4, who desire to withdraw this petition.

3. The learned Advocate for the informant submits that he has collected information and the informant is agreeable for the first information report to be quashed only to the extent of petitioner Nos.5 and 6. Insofar as petitioner Nos.7 is concerned, he submits on instruction that petitioner No.1, her husband, had created a fictitious record of the informant having illicit relations with another male person. The manner in which he purchased a Intex Android handset with a sim card, carrying Cellular No.9130140925 and then replacing the sim card with another sim card having Cellular No.8999566515, is clearly set out by the informant in the first information report.

4. The learned Counsel submits on instructions that the second sim card was used by the husband himself and the male person chatting on the other side, was Hanmant Sagat, petitioner No.7 herein, who is the cousin brother of the husband. So also, petitioner No.7 has been living with the parents in-laws of the informant from his childhood and he has been brought up in the said house. Being very close to the husband and the in-laws of the informant, he was one of the selected relatives, who approached the parental home of the informant on

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27/05/2018 and he was one of the four persons (the husband and both parents in-laws), who had vehemently pressurized the father of the informant to agree for a divorce.

5. Considering the material before us, we find that an offence, prima facie, can be made out against applicant No.7.

6. In view of the above, this petition stands disposed off as withdrawn, to the extent of petitioner Nos.1 to 4 and stands dismissed to the extent of petitioner No.7.

7. This petition is partly allowed by consent, to the extent of petitioner Nos.5 and 6 and the first information report No. 003/2019 is quashed and set aside. Consequentially, the pending proceeding shall not survive to the extent of petitioner No.5 Rameshwar Shivaji Jogdand and petitioner No.6 - Rani Vinod Maske.

8. The learned Advocate for the informant - wife makes a request that the Trial Court may consider a prayer of the informant of referring the matter to a mediator so as to bring the petitioner No.1 - husband and the informant together and make an attempt to save the marriage. She is willing to reside with the husband and lead a life as his wife. The learned Advocate for the petitioner No.1 submits that the issue

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may be left open to the Trial Court to consider as he can not make a statement today.

9. Considering the above, since an offence punishable under Section 498A of the Indian Penal Code is not a compoundable offence, we leave it to the informant and petitioner No.1 to come together and in the event it so happens, they are at liberty to avail of the remedy of seeking quashing of the first information report filed by consent.

(B. U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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