

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APL) NO.119/2019

1. Shri Amol s/o Krushna Tembhurne,
aged about 33 years, Occ. Service,
r/o Sanyal Nagar, Plot No.45,
Nari Road, In front of N.I.T. Garden,
Nagpur, Tq. Dist. Nagpur.
2. Smt. Usha w/o Krushna Tembhurne,
aged about 52 years, Occ. Household,
r/o Sanyal Nagar, Plot No. 45, Nari Road,
In front of N.I.T. Garden, Nagpur,
Tq. Dist. Nagpur.
3. Ku. Neha d/o Krushna Tembhurne,
aged about 29 years, Occ. Education,
r/o Sanyal Nagar, Plot No. 45, Nari Road,
In front of N.I.T. Garden, Nagpur,
Tq. Dist. Nagpur.

.....APPLICANTS

...V E R S U S...

1. State of Maharashtra through
Police Station Officer, Police Station,
Jaripatka, Nagpur.
2. Sau. Sneha w/o Amol Tembhurne,
aged about 25 years, Occ. Household,
r/o c/o Ramesh Raut, At Post Sevagram,
Tq. Chimur, Dist. Chandrapur.

...NON APPLICANTS

Mr. A. A. Dhawas, Advocate for applicants.
Mr. S. S. Doifode, A.P.P. for respondent no.1.

CORAM:- V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.
DATE:- JULY 26, 2021

ORAL JUDGMENT (Per: Amit B. Borkar, J.)

1. By this application under Section 482 of the Code of Criminal Procedure, the applicants have challenged registration of First Information Report No.143/2018 and Charge-sheet bearing No.245/2018, for an offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code.

2. The FIR came to be registered against the applicants with an allegation that the applicants have physically and mentally harassed non applicant no.2. Investigating agency has carried out investigation and filed charge-sheet before the Judicial Magistrate First Class (Court No.7), Nagpur.

3. The applicants have, therefore, filed present application challenging registration of FIR and charge-sheet filed against them. This Court on 27.03.2019, issued notices to non applicants. Non applicant no.1, the investigating agency, has filed reply and contested the application. During pendency of present application, applicant no.1 and non applicant no.2 have mutually resolved their dispute and they have filed joint application, bearing Criminal Application No.28/2021 for quashing of the FIR. It is stated in the said application that the parties have amicably settled

their dispute and non applicant no.2 has started residing with her husband applicant no.1. She has stated that she has no complaint against applicants. The application is signed by applicant no.1, non applicant no.2 and both the learned advocates appearing for the parties. The application has been affirmed by applicant no.1 and non applicant no.2.

4. Applicant no.1 and non applicant no.2 are personally present before the Court. We have ascertained from non applicant no.2 as to whether consent for quashing of the prosecution is out of her free will or not. She has categorically stated before the Court that she has voluntarily consented for quashing of the proceedings against the applicants as non applicant no.2 is peacefully and happily residing with applicant no.1.

5. We have carefully considered allegations in the FIR and material produced before this Court in the form of charge-sheet. On going through allegations in the FIR, we are satisfied that the offences alleged against the applicants are personal in nature. The Apex Court in **Madan Mohan Abbot vs. State Of Punjab** reported in **2008 (4) SCC 5840**, has taken a view that in case of settlement

between the parties and if the chances of conviction are bleak, the Courts should quash the FIR as criminal courts are already overburdened. It is also observed that time saved by quashing the proceedings can be better utilized for some other deserving cases.

6. In view of the settlement arrived at between applicant no.1 and non applicant no.2 and the view taken by the Apex Court in **Madan Mohan Abbot** (supra), we are satisfied that proceedings against the applicants deserve to be quashed and set aside. We, therefore, pass the following order.

Criminal Application (APL) No.119/2019 is allowed. FIR No.143/2018, Charge-sheet No.245/2018 and proceedings of Criminal Case No.2785/2018, pending on the file of Judicial Magistrate First Class (Court No.7), Nagpur, for an offence punishable under Sections 498-A, 504, 506 read with Section 34 of the Indian Penal Code, are quashed and set aside.

Criminal Application (APPP)No.28/2021 is disposed of.

Rule is made absolute in the above terms.

JUDGE

JUDGE

kahale