

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

CRIMINAL APPLICATION (APL) NO. 833 OF 2021

1. Renu D/o. Bhalchandra Kathale,
Aged about 35 years, Occ. - Household,
R/o. Kapda Line, Wardha; alias
Renu Tushar Bawankar.
2. Bhushan S/o. Bhalchandra Kathale,
Aged about 32, Occ. - Service,
R/o. Kapda Line, Wardha;
3. Bhalchandra S/o. Annaji Kathale,
Aged about 65, Occ.- Service,
R/o. Kapda Line, Wardha.
4. Vishal S/o. Kishore Dahasahastre,
Aged about 35 years, Occ. - Private,
R/o. 156, Chandrabhaga Nagar,
Hudkeshwar Road, Nagpur. -- (Accused No.1 to 4)
5. Tushar S/o. Vinayak Bawankar, -- (Ori. Complainant).
Aged about 39 years, Occ.- Service,
Resident of Vidya Nagar,
Wathoda Layout, Nagpur.APPLICANTS

... **VERSUS** ...

State of Maharashtra,
Through Police Station Officer,
Police Station, Nandanvan,
Nagpur.

.....NON-APPLICANT

Shri Masood Shareef, Advocate for the Applicant Nos.1 to 4.
Ms Poonam P Moon, Advocate for the Applicant No.5.
Shri S. S. Doifode, Additional Public Prosecutor for the Non-applicant.

**CORAM : V. M. DESHPANDE AND
AMIT B. BORKAR, JJ.**

DATE : 24.08.2021.

ORAL JUDGMENT : (PER AMIT B. BORKAR, J.)

1. Heard.

2. Rule. Rule is made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicants have jointly prayed for quashing and setting aside the First Information Report No.225/2016 dated 14.06.2016 registered with the non-applicant - Police Station for the offences punishable under Sections 324, 452, 323, 504, 506 read with Section 34 of the Indian Penal Code and consequent charge-sheet and Regular Criminal Case No.3737/2016 pending before the learned Judicial Magistrate First Class, Corporation Court No.-1, Nagpur.

4. The First Information Report came to be registered at the instance of the applicant No.5 against the applicant Nos.1 to 4 alleging that the marriage between the applicant No.1 and the applicant No.5 was performed in the year 2010. It is alleged that on 13.06.2016, the applicant No.1 assaulted the applicant no.5 and the applicant Nos. 1 to 4 forcefully entered the house of the applicant No.5 and threatened the applicant No.5 and his mother and father to kill. The Investigating Agency after conducting the investigation filed charge-sheet against the applicant Nos.1 to 4.

5. During the pendency of the proceedings, the applicant No.1 and the applicant No.5 who are husband and wife have entered into memorandum of understanding. The learned

Principal Judge, Family Court where petition No. RD-19/2020 was pending between the applicant No.1 and the applicant No.5, recorded consent terms entered into between the applicant No.1 and the applicant No.5. The Memorandum of Understanding, which is placed on record by the parties is dated 16.06.2021 and, is signed by the applicant No.1, the applicant No.5 and the Mediator of the Mediation Center, Family Court, Nagpur. As per Clause – 10 of the said Memorandum of Understanding, it is agreed that the parties shall withdraw all criminal cases and other litigations, if any, filed against each other with immediate effect. In pursuance of the said agreement, the applicants have jointly filed the preset application.

6. We have carefully scrutinized the allegations in the First Information Report, the material in the form of charge-sheet and the facts of the present case, we are satisfied that there is no material against the applicant Nos. 1 to 4 to fulfill the ingredients of the offence alleged against the applicant Nos.1 to 4.

7. The Hon'ble Apex Court in the case of *Narinder Singh & others Vs. State of Punjab & anr.* reported in *(2014) AIR SCW 2065*. The decision of the Hon'ble Apex Court makes it clear that the Court cannot declare to quash the First Information Report merely because the First Information Report incorporates a

particular provision which is a serious offence or offence against society. The Court has to make an endeavour to find out whether the information in the First Information Report indeed discloses the ingredients of such offence and the Court can accept the settlement and quash the report/charge-sheet only after the Court is of the opinion that such an offence is unnecessarily incorporated in the First Information Report/charge-sheet.

8. From the perusal of the First Information Report and the material produced in the Court, we are satisfied that the ingredients of the offence under Sections 324, 452, 323, 504, 506 of the Indian Penal Code are not fulfilled.

9. In view of the settlement between the applicant No.1 and the applicant No.5, who are husband and wife, we are satisfied that the chances of conviction against the applicant No.1 to 4 are bleak and therefore, there is no impediment in quashing the First Information Report.

10. We therefore, pass following order :

The First Information Report No.225/2016 dated 14.06.2016 registered with the non-applicant - Police Station against the applicant Nos.1 to 4 for the offences punishable under Sections 324, 452, 323, 504, 506 read with Section 34 of the

Indian Penal Code, consequent charge-sheet and Regular Criminal Case No.3737/2016 pending before the learned Judicial Magistrate First Class, Corporation Court No.-1, Nagpur are quashed and set aside.

11. Rule is made absolute in the above terms. Pending application(s), if any, stand(s) disposed of.

JUDGE

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