

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

Criminal Application (APL) No.797 of 2019

1. Gaurav S/o Uday Kulkarni,
Aged about 32 years,
Occu.: Service.
2. Uday S/o Digambar Kulkarni,
Aged about 67 years,
Occu.: Retired.
3. Sau. Shubhangi W/o Uday Kulkarni,
Aged about 60 years,
Occu.: Retired and Housewife.

Nos.1 to 3 R/o 163, Shobha Nagar Society,
Sahakar Nagar 2, Pune,
Tq. And Dist. Pune.

4. Sau. Prajakta W/o Nikhil Inamdar,
Aged about 34 years,
Occu.: Service,
R/o 91/1, Pushkarraj,
Sahajiva Society, Tulsibagh Colony,
Sahakar Nagar, Pune,
Tq. And Dist. Pune

... Applicants

Versus

1. State of Maharashtra,
through P.S.O., P.S. Dabki Road,
Akola, Tq. And Dist. Akola.
2. Sau. Vaishnavi W/o Gaurava Kulkarni,
Aged about 28 years,
Occu.: Service,
R/o C/o Adv. Deepak Joshi,
Parijat, Renuka Nagar, Dabki Road,
Akola,
Tq. And Dist. Akola.

SECOND ADDRESS

C/o. Vivek Suryaknat Joshi,
R/o A25, Parth Enclave, Canal Road,
Behind Kakade City,
Karve Nagar, Pune,
Tq. And Dist. Pune.

... Non-Applicants

Shri H.M. Mohta, Advocate for Applicants.
Shri T.A. Mirza, APP for Non-Applicant No.1 – State.
Shri Jagvijaysingh Gandhi, Advocate for Non-Applicant No.2.

CORAM : V.M. DESHPANDE &AMIT B. BORKAR, JJ.

DATE : 30th SEPTEMBER, 2021

Oral Judgment (Per Amit B. Borkar, J.) :

1. Heard Shri Mohta, the learned counsel for the applicants; Shri Mirza, the learned APP for the non-applicant No.1- State; and Shri Gandhi, the learned counsel for the non-applicant No.2.

2. **Rule.** Rule made returnable forthwith.

3. By this application under Section 482 of the Code of Criminal Procedure, the applicants are challenging registration of First Information Report No.202 of 2019 dated 19-6-2019 for the offences punishable under Sections 498-A, 323, 377, 504 and 506 read with Section 34 of the Indian Penal Code.

4. The First Information Report came to be registered against the applicants with the accusations that the applicants were ill-treating

and harassing the non-applicant No.2 with the result that the non-applicant No.2 could not conceive. It is also alleged that the applicant No.1 was residing separately with the non-applicant No.2.

5. During the pendency of the proceedings, the Investigating Agency has carried out the investigation and filed chargesheet against the applicants.

6. During the pendency of the proceedings, the applicant No.1 and the non-applicant No.2 have mutually resolved their dispute and the non-applicant No.2 by filing affidavit dated 30-7-2021 has stated that she has no grievance against the applicants, as they have decided to reside separately by taking decree of divorce by mutual consent.

7. We have carefully considered the allegations in the First Information Report as well as the material produced in the chargesheet. On perusal of the allegations against the applicants, we are satisfied that in view of the settlement between the non-applicant No.2 and the applicants, the chances of conviction are bleak. The Apex Court in the case of **Madan Mohan Abbot Vs. State of Punjab**, reported in **(2008) 4 SCC 582**, has taken a view that it is advisable that in disputes where the question involved is purely of a personal nature, the Courts should ordinarily accept the terms of the compromise even in criminal proceedings since keeping the matter

alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation.

8. Today, the non-applicant No.2 is present in the Court. She is identified by her Advocate Shri Gandhi. She has stated that she has no objection for quashing and setting aside the criminal proceedings against the applicants.

9. In view of the allegations in the First Information Report and the material produced in the chargesheet and considering the fact that the applicant No.1 and the non-applicant No.2 have already settled their dispute and residing separately by taking decree of divorce by mutual consent, there is no impediment in quashing and setting aside the First Information Report along with the chargesheet against the applicants.

10. We, therefore, pass the following order :

First Information Report No.202 of 2019 dated 19-6-2019 and the consequent criminal proceedings, bearing R.C.C. No.943 of 2019 pending before the 2nd Judicial Magistrate First Class, Akola are quashed and set aside.

11. Rule is made absolute in the above terms. Pending application(s) shall also stand(s) disposed of.

(AMIT B. BORKAR, J.)

(V.M. DESHPANDE, J.)

Lanjewar