

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

Criminal Application No.1742/2021 in Criminal Application (APL)
No.1305/2019

1. Abdul Aziz Shaikh Habib,
Aged 45 years, Occ.-Business,
 2. Nayajo Shaikh Habib Shaikh,
Aged 62 years, Occ.-Household,
 3. Saheb Khan Bhure Khan,
Aged 50 years, Occ.- Business,
 4. Sahida Saheb Khan,
Aged 45 years, Occ.-Household,
 5. Sk. Hafiz Sk. Habib,
Aged 32 years, Occ. Business,
 6. Farida @ Baheri Sk. Habib,
Aged 28 years, Occ.-Household,
 7. Salim Khan,
Aged 50 years, Occ.-Business,
 8. Fmaida Salim Khan,
Aged 35 years, Occ.-Household,
- All r/o Manzoorpura, Achalpur, Tq. Achalpur,
District Amravati.
9. Sikandar Khan Baba Khan,
Aged 54 years, Occ.-Business,
 10. Hamida Sikandar Khan,
Aged 50 years, Occ.-Household,
R/o Jamil Colony, Nagpuri Gate, Amravati,
Tq. and Dist. Amravati.
 11. Firoza Shaikh Habib,
Aged 25 years, Occ.-Household,
R/o. Manzoorpura, Achalpur,
Tq. Achalpur, District Amravati.

...Applicants.

-Versus-

1. State of Maharashtra,
through P.S.O. Nagpuri Gate,
Tq. and District Amravati.
2. State of Maharashtra,
through P.S.O. Sarmaspura, Tq. Achalpur,
District Amravati.
3. Afroza Parveen Abdul Ajj,
Aged 42 years, Occ.-Household,
R/o. Vanarasi, Nagpuri Gate, Amravati,
Tq. and Dist. Amravati. Respondents.

Mr. C.A. Babrekar, Advocate for applicants.
Mr. T.A. Mirza, APP for resp. nos. 1 and 2.

CORAM : M.S. SONAK & PUSHPA V. GANEDIWALA, JJ.
DATE : 27-10-2021.

Oral Judgment (P.C)

Admit. Heard finally with consent of Mr. Babrekar, learned Counsel for the applicants and Mr. Mirza, learned APP for the State.

2. The applicants herein are arrayed as accused in Crime No.360/2019 registered at Police Station Nagpuri Gate, Amravati for the offences punishable under Sections 498-A, 504 r/w 34 of the Indian Penal Code (for short, 'IPC') and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019 (for short, 'the Act, 2019').

3. By way of Criminal Application No.1742/2021, the applicants alongwith non-applicant no.2 submit that the matrimonial dispute between applicant no.1 who is the husband of non-applicant no.3 and non-applicant no.3-Afroza Parveen Abdul Ajij, has been amicably settled with the intervention of family members and close relatives of each other. It is further submitted that non-applicant no.3 has now realized her mistake. As per the terms of settlement non-applicant no.3 has come to reside with applicant no.1 at his house and decided to withdraw all the criminal cases lodged by her. Applicant no.1 and non-applicant no.3 are personally present before this Court and in order to satisfy ourselves, we personally talked with non-applicant no.3.

4. Considering the settlement of matrimonial dispute between the parties and considering the fact that non-applicant no.3 is residing with applicant no.1 and in view of the judgment of the Hon'ble Supreme Court in the case of *B.S. Joshi and others vs State of Haryana*, reported in 2003 (4) SCC 675, we are of the considered view that continuing the criminal proceedings against the present applicants would be sheer abuse of the process of law and waste of precious time of the Court.

5. In the interest of justice, we find, this is a fit case to quash and set aside the FIR No.360/2019 registered at Police Station Nagpuri Gate,

Amravati for the offences punishable under Sections 498-A, 504 r/w 34 of the IPC and Section 4 of the Act, 2019.

6. In this view of the matter, we are inclined to allow the applications and pass the following order :

- (i) The Criminal Application No.1742/2021 and Criminal Application (APL) No.1305/2019 are allowed.
- (ii) The FIR No.360/2019 registered at Police Station Nagpuri Gate, Amravati for the offences punishable under Sections 498-A, 504 r/w 34 of the IPC and Section 4 of the Act, 2019 against the applicants is quashed and set aside, subject to payment of costs of Rs. 10,000/-(rupees ten thousand only) by the applicants and non-applicant no.3 to be paid to the High Court Legal Aid Services Sub-Committee, Bench at Nagpur, within a period of two weeks from today towards Police machineries and State used by the applicants and non-applicant. no.3.
- (iii) Pending application(s), if any, stand(s) disposed of.

(Pushpa V. Ganediwala, J.)

(M.S. Sonak, J.)