

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

Criminal Application (APL) 1148 of 2018

Anil Gunwantrao Madear and another **V/s** Sau. Komal Ashish Madewar

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr A.B. Mirza, counsel for applicants.

Mr A.A. Dhawas, counsel for non-applicant-2

CORAM: ROHIT B. DEO, J.

DATE: 04/02/2021.

Learned counsel Mr. A.A. Dhawas who is appearing on behalf of the non-applicant 2 states that he has no instructions and therefore he may be discharged. The learned counsel Mr A.A. Dhawas is discharged.

2. The applicants are seeking quashment of Misc. Criminal Application 04/2018 initiated by the non-applicant under the provisions of the Protection of Women from Domestic Violence Act, 2005 ('DV Act').

3. The applicant 1 has filed additional affidavit dated 14.12.2020, the relevant portion of which reads thus:-

"1] The applicant 1 and non-applicant have amicably settled their dispute on terms and conditions mentioned in the HMP bearing 306/2017 filed under Section 13(B) of the Hindu Marriage Act before the learned Civil Judge, Senior Division, Yavatmal. Accordingly, judgment and decree came to be passed on 20.10.2020 in HMP 306/2017.

2] In the said petition it is clearly stated

that the non-applicant 2 will withdraw all cases including Domestic Violence Case.

3] Hence in view of the above facts no dispute survived between the parties to the above said application, hence the above said application is deserved to be allowed.”

4. The assertions in the additional affidavit are consistent with the petition jointly filed seeking Divorce by mutual consent.

5. Paragraph-3 of the petition, a copy of which is placed on record, specifically mentions that the proceedings under the DV Act shall be withdrawn by the wife. Moreover, on the basis of the compromise arrived at, the Division Bench has quashed the First Information Report dated 22.02.2018 on the basis of which offence punishable under Section 498-A read with Section 34 of the Indian Penal Code was registered against the applicants herein. This is discernible from the judgment dated 22.01.2021 rendered by the Division Bench in Criminal Application (APL) 247/2018.

5. In this view of the matter, this application is allowed in terms of prayer clause (a) which reads thus:-

“(a) quash and set aside the proceeding of Misc. Criminal Application 04/2018 pending on the file of learned Judicial Magistrate First

Class, Wani against the applicant and order of issuance of process dated 23.01.2018 passed by J.M.F.C. Wani (Annexure-C)”

JUDGE

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