

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

CRIMINAL APPLICATION (APL) NO.373 OF 2019

1. Shri Rupesh s/o Ramesh Padole,
Aged about 35 years, occupation unemployed.

2. Shri Ramesh s/o Pandurang Padole,
Aged about 62 years, occupation Nil.

3. Smt.Kusum w/o Ramesh Padole,
Aged about 62 years, occupation household.

4. Shri Mohan s/o Ramesh Padole,
Aged about 30 years, occupation labour.

All applicants No.1 to 4 are resident of
Mungsaji Nagar, behind Devika Lawn,
Nr.Ramkrishna Nagar, Dighori,
tahsil and district Nagpur.

..... **Applicants.**

:: VERSUS ::

1. State of Maharashtra,
Through PSO PS Tumsar.

2. Smt.Neha w/o Ramesh Padole,
Aged about 30 years, occupation service,
R/o Vivekanand Nagar, Nr.
Ganesh Bhavan, tahsil Tumsar,
District Bhandara.

..... **Non-applicants.**

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Ms S.S.Dhone, Counsel for Applicants.

Shri A.V.Muley, Counsel for Non-applicant No.2.

Shri S.S.Doifode, Additional Public Prosecutor for Non-applicant
No.1./State.

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CORAM : V.M.DESHPANDE & G.A.SANAP, JJ.

DATE : FEBRUARY 26, 2022

ORAL JUDGMENT (Per : V.M.Deshpande, J.)

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1. Heard learned counsel Ms S.S.Dhone for applicants, learned counsel Shri A.V.Muley for non-applicant No.2, and learned Additional Public Prosecutor Shri S.S.Doifode for non-applicant No.1/State. **Rule.** Rule made returnable forthwith. Heard finally by consent of learned counsel for respective parties.

2. By filing this proceeding under Section 482 of the Code of Criminal Procedure, applicants are challenging final report together with Summary Criminal Case No.6/2019 pending on the file of learned Judicial Magistrate First Class, Tumsar, district Bhandara for offence punishable under Section 498A read with Section 34 of the Indian Penal Code.

3. Non-applicant No.2/Neha is wife of applicant No.1/Rupesh. On 2.6.2018, she lodged First Information Report against all applicants resulting into registration of crime i.e. Crime No.279/2018 with Tumsar Police Station, district Bhandara. Investigating Officer continued with investigation and filed final report vide final report No.6/2019 in the Court of learned Magistrate, Tumsar for offence punishable under Section 498A read with Section 34 of the Indian Penal Code resulting into registration of Criminal Case No.6/2019 in the Court of said learned Magistrate.

4. On 10.4.2019, Notices on this application were issued. In

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pursuance to said Notices, learned counsel Shri A.V.Muley appeared for non-applicant No.2 and the State is represented by learned Additional Public Prosecutor Shri S.S.Doifode.

5. A submission is made on behalf of applicant No.1 and non-applicant No.2 that during pendency of the present application, in Hindu Marriage Petition No.21/2020, which was filed for mutual divorce in the Court of learned Joint Civil Judge Senior Division, Bhandara, a decree of mutual divorce was passed by judgment and order dated 26.2.2020 by the said Court. Also, it has been submitted that proceedings under Section 12 of the Domestic Violence Act, which was pending before learned Magistrate at Tumsar, were disposed of in view of amicable settlement arrived at between the husband and the wife.

6. Learned counsel for non-applicant No.2 submitted that he has instructions to make a statement before the Court that the dispute is resolved. Not only the said, divorce decree is also passed and there is no relation as husband and wife between Rupesh and Neha. He also submitted that in view of the amicable settlement, non-applicant No.2 is not interested in prosecuting her criminal proceeding.

7. Since the dispute between applicant No.1 and non-applicant No.2 is purely personal in nature and since they arrived at an amicable

Judgment

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settlement, in our view, continuance of present proceedings will be nothing but abuse of process of law.

8. In this view of the matter, the criminal application is allowed and disposed of accordingly.

Rule is made absolute in terms of prayer clause (a) of the application.

JUDGE

JUDGE

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