

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

CRIMINAL APPLICATION (APL) NO.492 OF 2019

1. Haribhau Baburao Pande,
Aged 45 years, Occ. Ex-Serviceman,
R/o. New Prasad Nagar,
Near Om Mangal Karyalay,
Akola, District Akola
2. Baburao Bansi Pande,
Age about 71 years, Occ. Nil,
R/o. Vyala, Tq. Balapur,
Dabki Road, District Akola
3. Rajesh Baburao Pande,
Age about 38 years, Occ. Service,
R/o Vyala, Tq. Balapur,
Dabki Road, District Akola
4. Sau. Raksha Rajesh Pande,
Age about 38 years, Occ. Household,
R/o. Vyala, Tq. Balapur,
Dabki Road, District Akola
5. Sau. Mangala Vijay Pandhare,
Age about 48 years, Occ. Household,
R/o Tagor Nagar, Behind Police Station,
Jalgaon Khandesh,
Tq. and District Jalgaon Khandesh

...APPLICANTS

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Police Station Balapur,
District Akola

2. Sau. Varsha Haribhau Pande,
Aged about 36 years, Occ. Teacher,
R/o C/o. Pratik Ashok Rokde,
Near Nagar Parishad,
Lotnapur, Tq. Balapur,
District Akola

...NON-APPLICANTS

Shri S. D. Dharaskar, Advocate for the applicants.
Shri V.A. Thakare, Additional Public Prosecutor for non-applicant
No.1/State.
Shri S.S. Sohoni, Advocate for non-applicant No.2.

CORAM : ROHIT B. DEO & URMILA JOSHI-PHALKE, JJ.
DATE : OCTOBER 21, 2022.

JUDGMENT (Per Urmila Joshi-Phalke, J.)

ADMIT. Heard finally with the consent of learned Counsel
for the parties.

2. By preferring this application, the applicants seeking relief of
quashment of the First Information Report (hereinafter referred to as
'the FIR' for short) vide Crime No.182/2019, initially registered at police
station Balapur, District Akola for the offences punishable under
Sections 498-A, 504 and 506 of the Indian Penal Code (hereinafter
referred to as 'the Code' for short) subsequently it was transferred to
police station Dabki road, District Akola wherein crime was registered
vide Crime No.203/2019. The investigation was completed and
the charge-sheet was filed.

3. Non-applicant No.2 had lodged the report against the present applicants alleging that her marriage was performed on 21/11/2003 with applicant No.1. After marriage she resumed cohabitation and begotten two children. Applicant No.1 was serving in Army. During cohabitation applicant No.1 took the non-applicant No.2 together with him at his various posting till his retirement. It is alleged that non-applicant No.2 had illicit relations with one Sudhakar Mahadeo Pande and, therefore, she left the matrimonial house of the applicant No.1. Non-applicant No.2 lodged the FIR against said Sudhakar Pande and the charge-sheet was filed against him. Non-applicant No.2 had also filed petition under the Protection of Women from Domestic Violence Act, 2005 alleging that she was ill-treated by the applicants by alleging her illicit relations with said Sudhakar Pande. She had also lodged the FIR bearing No.182/2019 on 08/04/2019 at police station Balapur, District Akola under Section 498-A, 504 and 506 of the Code. Said crime was transferred to police station Dabki Road, District Akola.

4. Dabki Road police have investigated the matter and filed charge-sheet.

5. During the pendency of the application the dispute between applicant No.1 and the non-applicant No.2 were amicably settled. Now

they are living together as husband and wife and, therefore, prayed for quashment of FIR. Applicant No.1 and non-applicant No.2 are present before the Court and identified by their respective Counsel. We have interacted with them. Non-applicant No.2 accepted and filed affidavit that she is residing with applicant No.1.

6. Considering the peculiar facts, we are of the view that no purpose would be served by compelling the applicants to face the prosecution, therefore the application deserves to be allowed. In the result, we proceed to pass the following order :

(a) The criminal application is allowed.

(b) The First Information Report vide Crime No.182/2019 registered at police station Balapur, District Akola for the offences punishable under Sections 498-A, 504 and 506 of the Indian Penal Code against the applicant No.1 is quashed and set aside.

7. Rule is made absolute in the aforesaid terms. No costs.

(URMILA JOSHI-PHALKE, J.)

(ROHIT B. DEO, J.)

**Divya*