

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

CRIMINAL APPLICATION (APL) NO. 506 OF 2019

1. Akash s/o Dnyaneshwar Falke,
Aged 32 years, occupation - service,
resident of Rutu Towers, E-2,
Flat no.1402, Ghodbandar Road,
Thane (West).
2. Smt. Rekha Dnyaneshwar Falke,
Aged 54 years, occupation - household,
resident of Rutu Towers, E-2,
Flat no.1402, Ghodbandar Road,
Thane (West).

... **APPLICANTS**

VERSUS

1. State of Maharashtra,
through Police Station Officer,
Hudkeshwar, Nagpur,
District Nagpur.
2. Mrs. Nikita w/o Akash Falke,
Aged 32 years, occupation - service,
resident of Rutu Towers, E-2,
Flat no.1402, Ghodbandar Road,
Thane (West).

... **NON-APPLICANTS**

Shri U. P. Dable, Advocate for applicants.

Shri T. A. Mirza, APP for non-applicant No.1.

Shri V. G. Bhamburkar, Advocate for non-applicant No.2.

**CORAM: A.S. CHANDURKAR &
G. A. SANAP, JJ.**

DATED : 25/02/2022

ORAL JUDGMENT : (PER G. A. SANAP, J.)

1. Heard. Admit.

2. The applicants are the accused in First Information Report bearing Crime No.193/2019 dated 27/04/2019 and subsequent charge sheet bearing No.159/2019 dated 23/10/2019 filed in 16th Joint Civil Judge Junior Division and Judicial Magistrate, First Class, (Corporation Court No.2), Nagpur. The necessary facts to quash the criminal prosecution are stated in the application.

3. The non-applicant No.1 opposed the application. The non-applicant No.2 is present through her Advocate. The non-applicant No.2 has not filed reply.

4. Heard the learned Advocates for the parties. Perused the record and proceedings.

5. The learned Advocate for the applicants and the learned Advocate for the non-applicant No.2 submit that the

applicants and non-applicant No.2 have amicably settled their dispute. The applicant No.1 is the husband of non-applicant No.2. The consent terms filed by the parties for the settlement of dispute in the Court of Judicial Magistrate, First Class, Nagpur in Criminal Misc. Application No.2380/2019 are placed on record. It is submitted that the applicant No.1 and the non-applicant No.2 have now decided to apply for decree of divorce by mutual consent. The learned Advocate for the applicants and the learned Advocate for non-applicant No.2 submit that the said petition has been filed in the Court of Civil Judge, Senior Division, Nagpur bearing Hindu Marriage Petition No.86/2022. A copy of petition is placed on record. The copy of petition and copy of consent terms are marked as **ARTICLE -A** collectively.

6. The applicants are facing trial for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code. On going through the documents placed on record, we are satisfied that the husband and wife have

amicably settled their dispute. They have decided to apply for divorce by mutual consent in view of settlement.

7. In the above background, in our view, the continuation of prosecution is abuse of process of law. No fruitful purpose would be served by keeping the prosecution pending. In the facts and circumstances, the application deserves to be allowed. Hence, the following order :-

ORDER

- i] The criminal application is allowed.
- ii] The FIR bearing Crime No.193/2019 and R.C.C. No.3401/2019 pending before 16th Joint Civil Judge Junior Division and Judicial Magistrate, First Class, (Corporation Court No.2), Nagpur for the offence punishable under Section 498-A read with Section 34 of the Indian Penal Code are quashed.

(G. A. SANAP, J.)

(A.S. CHANDURKAR, J.)

Choulwar

VITHAL
MAROTRAO
CHOULWAR

Digitally signed by VITHAL
MAROTRAO CHOULWAR
Date: 2022.02.26 15:59:59
+0530