

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1764 OF 2019

GANESH SURESH MALI AND ANR

VERSUS

SUNITA GORAKH PATIL AND ANR

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Advocate for Applicants : Mr. Bhamre Manish V

Advocate for Respondent No.1 : Mr. Jadhav Mangesh M

APP for Respondent No.2/State : Smt. D. S. Jape

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CORAM : KISHORE C. SANT, J.

DATE : 27th MARCH 2023.

Per Court :

Heard the parties.

1. The parties entered into an agreement and on the basis of compromise, the cases filed against each other, were to be withdrawn. In view of the compromise, even a divorce has taken place under Section 13B of the Hindu Marriage Act. However by that time, the conviction was already recorded against the present applicant no.1 and
2. It is reported that during the pendency of this application, applicant no.2 died. Therefore this application is now only as regards applicant

no.1. Since the conviction is under Section 498A and the said is not compoundable, the offence could not be compounded and thus the parties are before this Court.

. It is submitted that against conviction, criminal appeal no.6/2017 is filed and the same is pending in the Court of learned Sessions Judge, at Dhule. However in view of that fact that offence under Section 498A is not compoundable, only pusi is taken on record, however no order is passed by the learned Sessions Court

2. Learned Advocate for the respondent no.1/original informant also confirmed the same and he has no grievance if the application is allowed.

3. The learned APP however submits that since already conviction is recorded and appeal is pending, offence under Section 498A is not compoundable and the same cannot be done even in this Court.

4. Considering the judgment in the case of **B.S. Joshi Vs. State of Haryana**, reported in AIR 2003 SC 1386, this Court finds that in such circumstances, continuance of proceeding of 6/2017 pending in the

Court of learned Sessions Judge, at Dhule would be clearly an abuse of process of law. In view of the same, the impugned order dated 05.01.2017 passed by the learned Judicial Magistrate First Class, Shindkheda, Dist. Dhule in R.C.C. No. 139/2014 holding the present applicant guilty of an offence punishable under Section 498A read with Section 34 of the Indian Penal Code, is quashed and set aside. Consequently the appeal bearing Criminal Appeal No.6/2017 pending in the Court of learned Sessions Judge, Dhule also stands disposed off.

5. With this, the application stands disposed off.

[KISHORE C. SANT, J.]

Najeeb.