

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

CRIMINAL APPLICATION (APL) NO.208 OF 2023

APPLICANTS

- : 1 Sharad S/o Kewalram Kathane,
Aged about – 38 years, Occupation –
Service,
- 2 Kewalram S/o Narayanrao Kathane,
Aged about – 68 years, Occupation –
Retired,
- 3 Mrs. Chanda W/o Kewalram Kathane,
Aged about -60 years, Occupation –
Housewife.

Applicants are resident of – Plot
No.147, Mahalaxmi Nagar-3, 3rd Galli,
Behind Bakde Sabhagriha, Manewada
Road, Nagpur.

..VERSUS..

NON-APPLICANTS

- : 1 State of Maharashtra, Through Police
Station Officer, Police Station –
Hudkeshwar., Nagpur District –
Nagpur.
- 2 Bhagyashree d/o Yashwant Wasu, Aged
about – 36 years, Resident of – C/o.
Y.R. Wasu, Plot No.71, Smruti Nagar,
Dighori, Nagpur.

Mr P. Rewatkar, Advocate for the Applicants.
Mr S. S. Doifode, Addl. P. P. for the Non-Applicant No.1/State.
Ms V. Wasu (Dhoble), Advocate for the Non-Applicant No.2.

CORAM : VINAY JOSHI AND VALMIKI SA MENEZES, JJ.
DATE : 15th FEBRUARY, 2023.

ORAL JUDGMENT : (PER : VINAY JOSHI, J.)

. Heard finally by consent of the learned Counsel appearing for the parties.

Admit.

2. This is an application in terms of Section 482 of the Code of Criminal Procedure, 1973, seeking to quash the First Information Report (FIR) in Crime No.504 of 2019, registered with Hudkeshwar Police Station, District Nagpur, for the offence punishable under Sections 498A, 323 and 504 of the Indian Penal Code, 1860, and the related criminal case bearing RCC No.572 of 2020, pending on the file of Judicial Magistrate First Class, Nagpur.

3. The couple got married in the year 2017, however, the marriage does not run smoothly as there was matrimonial harassment. The wife has filed a report to the Police, on the basis of which aforesaid crime has been registered. The Police have investigated the matter, which culminated into filing of

final report.

4. It is the Applicant's case that due to misunderstanding, the report has been lodged. The parties have settled the dispute out of Court. Initially, the Applicant No.1 (husband) has filed petition for restitution of conjugal rights and during pendency, the parties have settled the dispute before Mediator in the Family Court, Nagpur. The terms of settlement were fixed. The parties have decided to sever the matrimonial ties. In accordance with those terms, the petition for restitution of conjugal rights was converted into the petition for divorce by mutual consent. The terms of settlement have been tendered in the Family Court of which copy has been produced. On the basis of settlement, the Family Court has passed decree of divorce on 06.12.2022.

5. It is one of the term of settlement that the Applicant No.1 (husband) shall pay total sum of Rs.13,00,000/- to the Non-Applicant No.2 (wife) and the wife would not prosecute the existing criminal case. Today, Non-Applicant No.2 (wife) is present in Court, who has

been identified by her Advocate Ms Varsha Wasu (Dhoble). We have enquired with the informant on which she has agreed that the matter has been settled and she had received the entire agreed sum. The dispute is of the domestic nature. The couple who has no issue from their wedlock have decided to go ahead in the life as per their choice. Considering the settlement in between the parties, continuation of criminal prosecution would be abuse of the process of Court.

6. In view of above, we hereby quash and set aside the FIR in Crime No.504 of 2019, registered with Hudkeshwar Police Station, District Nagpur, for the offence punishable under Sections 498A, 323 and 504 of the Indian Penal Code, 1860, and the related criminal case bearing RCC No.572 of 2020, pending on the file of Judicial Magistrate First Class, Nagpur.

7. The criminal application stands disposed in above terms.

(VALMIKI SA MENEZES, J.)

(VINAY JOSHI, J.)